



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 6th December, 2019:—

### I

#### BILL No. VIII OF 2018

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2018.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. For article 48A of the Constitution, the following article shall be substituted, namely:—

Substitution of article 48A.

"48A. (1) The State shall endeavour to protect and improve the environment so as to ensure a pollution-free environment for its citizens and to safeguard the forests and wild life of the country.

Protection and improvement of environment and safeguarding forests and wild life.

(2) The State shall strive hard to ensure that thirty-five per cent. of the total geographical area of the country be covered under forest or trees."

Amendment  
of article 51A.

**3.** In article 51A of the Constitution, for clause (g), the following clause shall be substituted, namely:—

"(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures and to actively participate in the State's endeavour to promote the forest cover of the country to thirty-five per cent. of the total geographical area."

## STATEMENT OF OBJECTS AND REASONS

Forest is a biological entity in the fascinating web of nature and always in a state of dynamic equilibrium. Forestry sector is an important ingredient in the economic and social fabrics of a country. The role of forests is significant in maintaining ecological balance. They provide for the continuity of the world's biodiversity which is necessary for economic development, human livelihood, medical discoveries, and to provide environment adaptive responses. Forests are also important because they stabilize climate, prevent soil erosion, watershed protection and provides habitat to thousands of life forms.

India accounts for about 24 per cent. of the total geographical area of the world and is also home to 17 per cent. of the world population. India is one of the richest countries in the world in terms of biodiversity making it one of the megadiverse countries accounting for nearly 8 per cent. of the species of the world. It is estimated that nearly 1/3rd of Indian plants are endemic, being found nowhere else in the world.

The National Forest Policy, 1988 embodies the principles of sustainable forest management and mandated an increase in the forest or tree cover in the country to 33 per cent. of the land area. However, according to the India State of Forest Report (ISFR) 2015, the total forest and tree cover is 79.42 million hectare, which is only 24.16 of the total geographical area of the country. The over-exploitation of forest products to meet the various demands, including unrecorded removal, overgrazing and encroachments have led to poor productivity and degradation of forests.

The Bill proposes to conserve the natural heritage of the country by preserving the remaining natural forests and at the same time also promote the increase in the forest cover with the vast variety of flora and fauna by ensuring that the State with active participation of the citizens will be able to preserve and promote the remarkable biological diversity and genetic resources of the country.

Hence this Bill.

DR. T. SUBBARAMI REDDY

## II

## BILL No. XXXVI OF 2019

*A Bill to provide for nationalisation of inter-State rivers for the purpose of equitable distribution of river waters among the States and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title,  
extent and  
Commencement.

1. (1) This Act may be called the Nationalisation of Inter-State Rivers Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means the State Government or Union Territory Administration, in case of a State or a Union Territory, as the case may be, and the Central Government in all other cases;

(b) "committee" means the Water Distribution Committee established under Section 7;

(c) "inter-State river" means any river which has its source in one State and passes through two or more States including the States in which the river has its origin before it submerges into the sea and also includes, a lake, tank, rivulet, which has its source from a river which is an inter-State river; and

(d) "prescribed" means prescribed by rules made under this Act.

3. Notwithstanding anything contained in any other law for the time being in force, no State shall have the exclusive right over an inter-State river or to its use.

No State to have exclusive right over inter-State river.

4. From the date of commencement of this Act, the Central Government shall have the exclusive right and control over all inter-State rivers.

Central Government to have right and control.

5. (1) Every State Government/Union Territory Administration shall forward its requirements of water for all purposes, including irrigation and drinking water to the Central Government and also its requirements for electricity.

State Governments to forward requirements of water/ electricity.

(2) While forwarding its requirements, every State Government and Union Territory Administration shall indicate the rivers, which are not inter-State rivers, and their status and any dam constructed within the State on any river, including an inter-State river, and its capacity for storage of water and electricity generated from those rivers.

(3) Every State Government and UT Administration shall also indicate the average rainfall in the State during the last three years in different seasons and the amount of rainfall during the current year.

6. (1) It shall be the duty of the Central Government to distribute river water of every inter-State river to the States and UT within which such rivers pass through.

Central Government to distribute inter-state river water.

(2) While distributing river waters, the Central Government shall take into consideration the following factors:—

(a) the population and area of each interested State and UT;

(b) the land available for farming in each State and UT;

(c) the requirements for drinking water and for agricultural and other purposes in each State and UT;

(d) the length of inter-State river passing through each State and UT; and

(e) the requirements and availability of electricity in each State and UT.

7. (1) The Central Government shall, by notification in the official Gazette, establish a committee to be known as the Water Distribution Committee to advise and make recommendations to the Central Government about distribution and sharing of water of inter-State rivers to each State and UT and matters connected therewith.

Establishment of Water Distribution Committee.

(2) The Committee shall consist of,—

(i) a retired Judge of the Supreme Court—Chairperson;

(ii) Secretary, Ministry of Jal Shakti—Member;

(iii) Chairperson, Central Water Commission—Member;

(iv) two eminent persons having experience in water resource management;

(v) four Secretaries of Irrigation or PWD Department from the State Governments, to be nominated on rotational basis—Members;

to be appointed by the Central Government in such manner as may be prescribed.

(3) The salary and allowances payable to and other terms and conditions of service of Chairperson and other members of the Committee shall be such as may be prescribed.

(4) The Ministry of Jal Shakti shall provide secretarial assistance to the Committee.

(5) The Committee while discharging its function shall follow such procedure and meet in such manner as may be prescribed.

Central  
Government  
to construct  
hydro-  
electrical  
plants on  
inter-State  
rivers.

**8. (1)** From the date of commencement of this Act, no appropriate Government shall construct any hydro-electrical plant or project on any inter-State river or based on it.

**(2) The Central Government shall have the exclusive right and control to construct any power plant meant for power generation on any inter-State river and shall distribute electricity in such ratio, among the States and UT through which the inter-State rivers pass, as may be prescribed.**

**(3) The appropriate Government shall pay to the Central Government in such ratio as may be prescribed for the electricity it receives from any hydro-electrical plant or project constructed on an inter-State river.**

Power to  
make rules.

**9. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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STATEMENT OF OBJECTS AND REASONS

There are many rivers big or small flowing through many States before they submerge into the nearest sea. Today half of the population of the country do not have access to potable water. Water is also not available for irrigation and other purposes. As a result, production of agricultural products has been considerably affected. It has been observed that many States through which a river flows, fight for considerable share of river water and try to deprive the just and due demand of other States. Consequently, many disputes are pending in Tribunals for settlement. It is a common knowledge that Tribunals take a long time before delivering judgement.

Water is a precious resource and calls for judicious management of the limited water resources. It is high-time that the country needs to rise above political, ideological and regional differences and also move away from a narrow project centric approach to a broader, holistic approach to issues of water management.

Therefore, it is proposed that only the Central Government shall have the exclusive right and control over all inter-State rivers and it shall distribute river water according to pre-determined formula for allocation of water, on the recommendations of Water Distribution Committee. It is proposed that the Central Government shall also have the exclusive right over electricity projects constructed on inter-State rivers. This measure will not only enable distribution of river water among the different States without affecting the interests of the concerned States but also enable proper utilisation of available resources.

DR. T. SUBBARAMIREDDY

## FINANCIAL MEMORANDUM

Clause 7 of the Bill provides establishment of Water Distribution Committee to advise and unable recommendations to Central Govt. regarding distribution and sharing of water.

Clause 8 provides that the Central Government shall construct hydro electrical plants or projects on inter-State rivers. Though there is a provision that the appropriate Government shall pay to the Central Government in such ratio as may be prescribed for the electricity it receives, yet expenditure will be incurred from the Consolidated Fund of India. It is likely that an annual recurring expenditure of about rupees five hundred crore will be involved. A non-recurring expenditure of above rupees three hundred crore is also likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the matters will relate to detail only, the delegation of legislative power is of a normal character.



## III

## BILL NO. XXXVII OF 2019

*A Bill to provide for adequate dwelling units to the families living below poverty line or falling under low income group in the country by providing one free of cost or at such reasonable cost and providing interest free loans to families in low income group for purchase of dwelling units and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Adequate Housing Act, 2019.

(2) It shall extend to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Short title,  
extent and  
commencement.

Definitons.

**2.** In this Act, unless the context otherwise requires,—

(a) "Committee" means Monitoring and Grievance Redressal Committee constituted under section 8;

(b) "dwelling unit" means a house comprising of at least one living room, one bed room, one kitchen and one toilet with electricity, water and sanitation facilities;

(c) "families living below poverty line" means those families which are declared by the Central Government to be living below poverty line;

(d) "fund" means House Building Fund constituted under section 7; and

(e) "prescribed" means prescribed by rules made under this act.

Central

Government to  
provide dwelling  
unit to families  
living below  
poverty line.

**3. (1)** The Central Government shall, by notification in the Official Gazette, within period of five years from the commencement of this Act, provide free of cost, all-weather dwelling unit to each family living below poverty line in the country.

(2) For the purposes of sub-section (1), the Central Government shall, in consultation with the concerned State Government or Union Territory Administration as the case may be, cause to be notified a list of all families living below poverty line in each State and Union territory in such manner as may be prescribed.

(3) The priority of allotting the dwelling unit in a State or Union territory shall be determined by draw of lot to be conducted in such manner as may be prescribed.

Central

Government to  
provide dwelling  
unit at fifty per  
cent of the  
cost.

**4. (1)** The Central Government shall, within a period of six years from the commencement of this Act, provide dwelling unit at fifty per cent of the cost to each family having an annual income of not more than rupees six lakh.

(2) For the purpose of sub-section (1), the Central Government shall,—

(i) in consultation with the State Government or Union territory Administrative Administration as the case may be, cause to be notified a list of all families having an annual income less than rupees six lakh in each State and Union Territory in such manner as may be prescribed; and

(ii) provide interest free loans to the family to pay the cost of the dwelling unit in such manner as may be prescribed.

(3) The priority of allotting the dwelling unit in a State Union territory under this section shall be determined by the draw of lot to be conducted in such manner as may be prescribed.

Central

Government to  
maintain  
dwelling unit.

**5. (1)** The Central Government shall, after every five years, undertake the maintenance of the dwelling units given under section 3 to families living below poverty line and charge such nominal amount for the purpose as may be prescribed.

(2) The Central Government shall, after every five years, undertake the maintenance of the dwelling units given under section 4 to families whose annual income is not more than rupees six lakh and charge fifty per cent of the maintenance cost.

Succession of  
dwelling unit.

**6.** The Central Government shall ensure that on the death of the head of a family living below poverty line or of a family earning not more than rupees six lakh annually, the legal title of the dwelling unit shall pass on to the dependant family members.

House Building  
Fund for poor  
and families  
living below  
poverty line.

**7. (1)** The Central Government shall, by notification in the Official Gazette, establish a Fund to be known as the House Building Fund for poor and families living below poverty line for the purpose of this Act.

(2) There shall be credited to the fund,—

(a) amounts received from the Central and the State Government as grant-in-aid; and

(b) donations received from private individuals and Organisations.

**8. (1) The Central Government shall, by notification in the Official Gazette, establish a Committee to be known as the Monitoring and Grievance Redressal Committee to augment the process of providing dwelling units to the poor and families living below poverty line and redressal of their grievances.**

Monitoring  
and Grievance  
Redressal  
Committee.

(2) The Committee shall consist of,—

(i) a retired judge of Supreme Court—Chairpersons;

(ii) Secretary, Ministry of Housing and Urban Affairs, Central Government—member;

(iii) Chairman, National Buildings Construction Corporation (India) Ltd.,—member;

(iv) two eminent persons having experience in working for poor and families living below poverty line—members;

(v) four Secretaries of Housing Department from the State Governments to be nominated on rotational basis—members,

to be appointed by the Central Government in such manner as may be prescribed.

(3) The salary and allowances payable to and other terms and conditions of Services of Chairperson and the members of the Committee shall be such as may be prescribed.

(4) The Ministry of Housing and Urban Affairs shall provide secretarial assistance to the Committee.

**9. The Committee shall,—**

(i) suggest ways to augment the process of providing dwelling units to poor people and families living below the poverty line;

(ii) receive and redress grievances of the people in respect of their right to housing under this Act;

(iii) suggest, from time to time, the specification that may be adopted while constructing the dwelling units for poor people and families living below the poverty line; and

(iv) perform such other functions as may be prescribed.

Functions of  
the  
Committee.

**10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.**

Power to  
remove  
difficulties.

**11. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, providing dwelling units to families living below poverty line and to families earning less than rupees six lakh per annum.**

Act to  
supplement  
other laws.

**12. (1) The Central Government may, by notification in the official Gazette make rules to carry out the provisions of this Act.**

Power to  
make rules.

(2) Every rule made under this act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Housing forms an indispensable part of ensuring human dignity. Adequate housing encompasses more than just four walls of room and roof over one's head. Housing is essential for normal healthy living. It fulfills deep seated psychological needs for privacy and personal space; physical needs for security and protection from inclement weather. Article 25 of the Universal Declaration of Human Rights recognizes the right to housing as part of right to adequate standard of living. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) also guarantees the right to housing as part of the right to an adequate standard of living. Besides, the right to adequate housing is also recognized internationally in several other instruments that have focussed on the need to protect rights of particular groups such as Convention on the Elimination for all forms of Discrimination Against Women (CEDAW), Convention on the Right of the Child (CRC) and the International Convention on Elimination of Racial Discrimination (CERD). India as a party to international covenants has obligation to provide adequate housing to its citizens.

The Supreme Court in various judgements has elaborated on the right to adequate housing, shelter and livelihood being part of all encompassing right to life under article 21 of the Constitution. Increasing disparity in income has also led to the homelessness in our country. While some people live in palaces or big houses, some don't even have access to a shelter. The housing with its rising cost has become unaffordable. According to an estimate, there are around fifteen crore homeless people in India. These homeless people face vagaries of weather from chilling cold in winter to heat waves during summer. Many of these homeless people die every year. Most of these homeless persons are poor or live below the poverty line. Adequate housing is also necessary for protection of childhood as homeless child is invariably subjected to child abuse and crime. Still crores of persons particularly living below the poverty line or falling within low income group are not having roof over their heads and living in sub-human conditions on pavements, Bastis, *Jhuggi-Jhonpri* and unauthorised slums.

It is the Government's obligation to guarantee that everyone can exercise this right to live in security, peace and dignity. Therefore, it is felt that the Government should provide at least one dwelling unit to each family living below poverty line free of cost. Further, the persons falling within low income group should also be given one dwelling unit at fifty per cent of the cost of construction. Since, poor families cannot afford to pay a lump sum amount to purchase house, it is also proposed that they should be given one time interest free loans for the purpose.

Hence, this Bill.

DR. T. SUBBARAMIREDDY

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FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the families living below poverty line shall be provided a dwelling unit free of cost. Clause 4 provides that families earning below rupees six lakh shall be given a dwelling unit at fifty per cent of the cost. Clause 5 provides that Central Government shall also undertake the maintenance of these dwelling units. Clause 7 provides that Central Government shall also contribute to the House Building Fund. Clause 8 provides for establishment of a Monitoring and Grievance Redressal Committee.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. However, at this stage it is difficult to estimate the recurring Consolidated Fund of India expenditure that may be required as the same will depend on the number of eligible persons for housing and the decision of the Central Government on the number of housing units to be constructed every year. A non-recurring expenditure of about rupees two crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of legislative powers is of normal character.

## IV

## BILL No. XXXIII OF 2019

*A Bill to provide for the protection, development and afforestation of Mangroves which are essential natural barriers against rising tides of various natures of vengeful sea when it roars ashore, by establishing a National Board for development of Mangrove forests in the coastal areas of the country, proper use of dry wood of Mangroves etc. and for matters conneted therewith and incidental thereof.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Mangroves Forests (Special Provisions) Act, 2019.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State, and in other cases, the Central Government;

(b) "board" means the National Board for Mangrove Forests established under section 3;

(c) "mangrove" include small shrubby, highly specialized plant which stick it out at the muddy edges of coast absorbing the corrosive action of salt water, filtering mud and sediment and putting away more carbon dioxide from atmosphere;

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) **The Central Government shall, as soon as may be, but within six months of the commencement of this Act, by notification in the official Gazette, establish a Board to be called "the National Board for Mangrove Forests";**

Establishment of the Board.

(2) **The Board shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable and to contract and shall by the said name, sue or be sued;**

(3) **The headquarters of the Board shall be at Aurangabad in the State of Maharashtra and its regional offices shall be located in the capital of coastal states with their respective territorial jurisdiction;**

(4) **The Board shall consists of a Chairperson, a Deputy Chairperson and such other members as may be prescribed;**

(5) **The Central Government shall provide to the Board such number of officers and staff as may be necessary for the efficient functioning of the Board.**

(6) **The Salaries and allowances payable to and other terms and conditions of service and qualifications of the Chairperson, Deputy Chairperson, Members, officers and staff of the Board shall be such as may be prescribed;**

(7) **The procedure to be followed by the Board for its meeting shall be such, as may be prescribed.**

4. (1) **The Board shall formulate a scheme for the protection, development and afforestation of mangroves along with guidelines to cut and use mangroves for development projects, etc. in the coastal areas of the country.**

Functions of the Board.

(2) Without prejudice to the generally of the foregoing provision, such a scheme shall also provide for,—

(i) educating people about the importance of mangroves in the coastal areas and the proper and judicious use of dry of mangrove branches and roots;

(ii) guidelines for development projects in and around mangrove forests;

(iii) protection of species of marine mega fauna and dwellings for oysters, algae, barnacles, sponges, shrimps, mud oysters etc., several species of birds, reptiles and fish, winter migrant birds and nesting species;

(iv) involvement of locals of coastal areas including fishermen, boatmen etc., village Panchayats of coastal villages and Non-government Organisations in protecting and afforestation of mangroves;

(v) identifying news areas in coastal States where mangrove forests can be developed and steps for plantation of different species of mangroves in such area;

(vi) making recommendations to the appropriate Government for substantially increasing areas of mangrove forests in coastal areas;

(vii) such other measures as the Board may deem necessary for the purpose of this Act.

Appropriate Government to implement the scheme of the Board.

**5.** It shall be the duty of the appropriate Government to implement the scheme prepared by the Board in such manner as may be prescribed.

Penalty.

**6.** Whoever destroys or causes harm to the mangrove forest in any manner without the permission of the Board shall be guilty of an offence under this Act and shall be liable for imprisonment for a term which may extend to three years and also with fine which may extend to five lakh rupees, depending on the severity of the offence committed by such offender.

Offence by Companies.

**7.** Where an offence under this Act has been committed by a company or body corporate, every person who at the time of the offence was committed, was incharge of, and was responsible to the Company, for the conduct of the business of the Company, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

Power of Central Government to give directions.

**8.** The Central Government may give such directions, as it may consider necessary to the Board for the effective implementation of the provisions of the act.

Central Government to provide requisite funds.

**9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to the Board by way of grants such sums of money as the Board may require for the efficient implementation of this Act.**

Annual Report.

**10. (1)** The Board shall prepare, in such form and at such time, as may be prescribed, its Annual Report, giving a true and full account of its activities during the previous financial year and submit a copy thereof to the Central Government.

**(2)** The Central Government shall cause the Annual Report to be laid before each House of Parliament.

Power to make rules.

**11.** The Central Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act.



## STATEMENT OF OBJECTS AND REASONS

Mangroves, usually consist of small, shrubby, highly specialized plants. They stick it out at the muddy edges of the Coast, absorbing the corrosive action of salt water which can peel the skin of our body if we immersed in it for too long, filtering mud and sediments and putting away more carbon dioxide from the atmosphere into “long term storage” than any of the world forest. The NASA world’s best space agency has called them the best carbon scrubbers. Mangroves are technical marvels as their roots grow upwards, sticking out into the air from the mud which enables them to breathe and deal with the low oxygen levels in the cloying mud. They have sophisticated salt filtering system that can remove excess salt from the water and which we could potentially adapt for desalination plants. They filter out heavy metals from the mud and deposit rich sediments. Their extensive root system slows down the tumult of the sea preventing the sort of erosion that we recently saw in Kerala.

Mangrove forests grow in warm tropical and subtropical areas like estuaries and marine coastlines. According to one report the total area in India under Mangroves is 4921 Sq. Kms., a little over 3 percent of the world total. Our largest and most famous mangrove forest is, of course, the Sunderbans spanning both India and Bangladesh and which has been declared a World Heritage site and biosphere reserve by the UNESCO. It is the largest delta clothed in mangrove forests and vast saline mudflats in the world. It is home to the fiercest and the largest number of Royal Bengal Tigers in the world. It is also a haven for more than 250 species of birds, reptiles and over 120 species of fish and its beehives have tempted honey gatherers to risk their lives. It serves as a flood barrier to Kolkata, protecting the city from the ravages of cyclonic activity which is all too common in this area. Our second largest Mangrove habitat is Bhitarkanika on the Odisha Coast, an important Ramsar Wetland featuring saltwater crocodiles and the largest known nesting area for olive Ridley sea turtles. Over 220 species of birds have been recorded here including 57 winter migrants and over 80 nesting species.

On our western coast financial capital of the Nation Mumbai too has Mangroves protecting it from tidal surges. Unfortunately some of them have been put on death row. According to one report, between 1972 and 1975 over 200 kms. of the Maharashtra coast was covered with mangroves and by 2001 there was just 118 kms left. Now, about 13.36 hectare of mangrove in the Thane creek is under threat due to the Bullet Train project. Some 30,000 mangrove trees are to be cut though the Government says that five times of the numbers shall be planted but mangroves can not simply be planted and ignored.

Surely, the mangroves must be amongst the most remarkable and valuable plants in the world which thrive in a hostile environment and a very good counselor, sooth the seething temper of a vengeful sea when it roars ashore seeking what we robbed from it. Mangroves extensive root system slow down the tumult of the sea. Their greatest recent accomplishment was the taming of the boxing day Tsunami in 2004 which killed so many people on unprotected coastlines. The mangroves on our eastern shores behaved rather like a car’s impact absorbing bumpers and crumple zones, swallowing the massive energy and impact of the waves.

But unfortunately we are destroying the mangrove forests. They need to be protected and developed on a very large scale. For this purpose a National Board is proposed to be established under this Bill to exclusively deal with mangroves in Coastal areas.

Hence this Bill.

RAJ KUMAR DHOOT

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a National Board for Mangrove Forests. Clause 9 makes it obligatory for the Central Government to provide requisite funds for effective implementation of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the exact amount at this juncture but it is estimated that a sum of rupee-fifty thousand crore will involve as recurring expenditure per annum.

An expenditure of rupee sixty thousand crore may also involve as non-recurring expenditure for creating various assets.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislation power is of normal character.

## V

## BILL NO. XXXIX OF 2019

*A Bill to provide for the protection and rehabilitation of victims of floods which may be caused by heavy rains, cloudbursts, cyclones, breached bunds of dams, reservoirs, etc. and other reasons by making various provisions through a statutory board at national level which may also suggest measures to be taken by Central and State Governments to control floods and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Victims of Floods caused by Heavy Rains, Cyclones and other reasons (Rehabilitation and Welfare) Act, 2019.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate" Government means in the case of a State, the Government of that State, and in other cases, the Central Government;

(b) "Board" means the National Board for Rehabilitation and Welfare of Flood Victims established under section 3;

(c) "prescribed" means prescribed by rules made under this Act;

Establishment  
of Board.

**3. (1) The Central Government shall, as soon as may be, but within a period of sixty days from the date of commencement of this Act, by notification in the Official Gazette, establish for the purposes of this Act a National Board for Rehabilitation and Welfare of Flood Victims.**

**(2) The Board shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.**

**(3) The headquarters of the Board shall be at Aurangabad in the State of Maharashtra and its regional offices shall be located in the capital of each State and Union Territory;**

**(4) The Board shall consist of;—**

**(i) a Chairperson, a Deputy Chairperson and six other members to be appointed by the Central Government in such manner as may be prescribed;**

**(ii) not more than one representative each from the States and Union Territories to be nominated by the respective State Governments and Union Territories Administrations;**

**(5) The Central Government shall provide to the Board such number of officers and staff as may be necessary for the efficient functioning of the board;**

**(6) The salaries and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson and other members, officers and staff of the Board shall be such as may be prescribed;**

**(7) The Board shall comply with such directions as may, from time to time, be given to it by the Central Government.**

**(8) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in the manner as may be prescribed.**

Functions of  
the Board.

**4. (1) The Board shall discharge such functions as may be necessary for the protection and rehabilitation of victims of floods caused by heavy rains, cloudbursts, cyclones, breached bunds of dams, reservoirs, etc.**

**(2) without prejudice to the generality of the provisions contained in sub-section (1), the Board may also provide for:—**

**(a) making a detailed study and analysis of floods caused in the past in the regions and areas of the country and identify areas in every State and Union Territory which are prone to floods;**

**(b) making provision for accelerated water drainage system in the residential areas prone to floods in particular which are near the rivers or the sea, as the case may be;**

**(c) suggesting policy with regard to construction of houses and commercial establishments near the rivers and beaches;**

**(d) making provision for providing permanent shelters capable of withstanding the severity and intensity of flood waters to the people of identified floodprone areas;**

**(e) steps to be taken for plantation of trees and shrubs as afforestation measure in and around floodprone areas and in particular near the rivers and hilly areas where landslides are caused by floods or heavy rain to mitigate the gravity of floods and cloudbursts;**

**(f) installing flood forecasting systems to alert the people of floodprone areas;**

**(g) making provision for providing food, drinking water and other necessities in flood-affected areas during floods in such manner as may be prescribed;**

(h) making provision for boats and other rescue materials for the rescue of people in flooded areas;

(i) making recommendations to the Central Government for minimizing the loss of lives and properties in flood affected and flood prone areas;

(j) keeping perpetual surveillance, carrying out inspections and monitoring rescue operations during the floods;

5. It shall be the duty of the appropriate Government to implement the recommendations of the Board.

Appropriate Government to implement recommendations of the Board.

6. Notwithstanding anything in this Act or any other law for the time being in force, the Central Government shall pay compensation of,—

Compensation in case of death or serious injury during flood.

(i) rupees ten lakh to the nearest kin of a person who has lost his life in flood;

(ii) rupee five lakh in case of a serious injury to a person affected by flood;

7. (1) The Board shall prepare, in such form and at such time, as may be prescribed, its annual report, giving a true and full account of its activities during the previous financial year and submit a copy thereof to the Central Government.

Annual Report.

(2) The Central Government shall cause the Annual Report to be laid before each House of Parliament.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf provide to the Board requisite funds every year for the effective implementation of this Act.

Central Government to provide requisite funds.

9. This Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Act to supplement other laws.

10. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

In several parts of our vast nation floods are a regular phenomenon caused by mother nature's fury every year. Even this year floods have wreaked havoc in various States like Bihar, Uttar Pradesh, Punjab, Himachal Pradesh, Uttarakhand, Madhya Pradesh, Chhattisgarh, Maharashtra, Assam, Odisha, etc. It has not spared even desert States like Gujarat and Rajasthan. Bihar, Assam and eastern Uttar Pradesh face the fury of floods every year caused by rivers emanating from Nepal and China. Apart from the fury of mother nature humans too have contributed immensely in the matter. Polluted environment, unplanned and uncontrolled development in the cities particularly those which are near the rivers and sea, ruthless destruction of jungles, rampant use of plastic, toxic gases, chemicals, etc. leads to disruption in the weather cycle in the country frequently culminating in the fury of floods. The floods devastate quite a large number of villages, cities and damage properties, crops, roads and kill people and livestock. The agricultural land also undergoes severe soil erosion. Due to these floods country suffers huge losses in terms of human lives, livestock, properties, crops, etc. thereby increasing the financial burden of the Governments of the day. At the same time people become homeless and get displaced and face innumerable problems including safety of their lives.

Though the Central Government and State Governments and their agencies to their level best to provide relief to the victims of floods and their kins by making temporary arrangements of shelter, food etc for them, it is felt that there still is need to have a permanent statutory body to suggest measure to control floods. As such a National Board needs to be established to exclusively deal with natural calamity of floods in the country.

Hence this Bill.

RAJKUMAR DHOOT

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FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a National Board for Rehabilitation and Welfare of Flood Victims. Clause 8 makes it obligatory for the Central Government to provide requisite funds for effective implementation of the provisions of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the amount at this stage but it is estimated that an amount of one thousand crores rupees may involve as recurring expenditure per annum. A non-recurring expenditure to the tune of five hundred crore rupee may also involve for creating assets.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is therefore of normal character.

## VI

## BILL NO. XL OF 2019

*A Bill to provide for the compulsory periodical desiltation of dams, reservoirs, rivers and such other water bodies and an institutional mechanism by establishing a National Authority to ensure timely and periodical desiltation of such water bodies in the country to increase their water holding capacity and ensure smooth flow of water which will reduce the incidence of floods and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Compulsory Periodical Desiltation of Dams, Reservoirs and Rivers Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.



2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State, and in other cases, the Central Government;

(b) “Authority” means the National Desiltation Authority of India established under section 3;

(c) “Dam” means any artificial barrier and its appurtenant structure constructed across rivers or tributaries thereof to impound or divert water which also include barrage, weir and similar water impounding structures;

(d) “desiltation” means removing of sediments of rocks and clay deposited by flowing stream of water in a river, dams and other water bodies.

(e) “prescribed” means prescribed by rules made under this Act;

(f) “reservoir” in relation to a dam shall mean any spread of water impounded by such a dam.

3. (1) With effect from such date, as the Central Government may by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a National Desiltation Authority of India, within a period of sixty days from the date of commencement of this Act.

Establishment of National Desiltation Authority of India.

(2) The Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose off properties, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The headquarters of the Authority shall be at Aurangabad in the State of Maharashtra and the Authority may also establish offices at other places in India.

(4) The Authority shall consist of a Chairperson, a deputy Chairperson and four other members having such qualifications and experience to be appointed by the Central Government in such manner as may be prescribed;

(5) The salaries and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson and other members shall be such as may be prescribed;

(6) The Authority shall have its own Secretariat headed by a Secretary and such number of officers and staff as may be necessary for the efficient functioning of the Authority and the salaries, allowances payable to and other terms and conditions of service of the Secretary, other officers and staff shall be such as may be prescribed.

(7) The Authority shall comply with such directions, as may, from time to time, be given to it by the Central Government.

(8) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings in the manner as may be prescribed.

4. (1) The Authority shall prepare a list of dams, reservoirs and rivers in the country and chalk out a programme for desiltation of each of these dams, reservoir and river and prescribe norms for desiltation, prioritisation of works, proper surveillance, inspection and maintenance of such works and shall ensure that every dam, reservoir and river undergoes desiltation process at least once in every five year.

Functions of the Authority.

(2) Without prejudice to the generality of the provisions, contained in sub-section (1), the Authority shall make all endeavours to,—

(a) make provision for machinery, vehicles and necessary infrastructure required for desiltation works;

(b) hire services of experts in the field of desiltation works in consultation with Dredging Corporation of India;

(c) suggest measures for the use of silt which will be generated after the desiltation works;

(d) make provisions for safety, emergency action plan and such other measures, as may be prescribed, during the desiltation works undertaken by the Authority.

Appropriate Government to extend required help to the Authority.

**5.** It shall be the duty of the appropriate Government to extend requisite help, manpower and assistance to the Authority, as and when required by it.

Annual Report.

**6.** (1) The Authority shall prepare, in such form and at such time, as may be prescribed, its report giving a true and full account of its activities during the previous financial year and submit a copy thereof to the Central Government.

(2) The Central Government shall, as soon as may be, cause the annual report to be laid before each House of Parliament.

Central Government to provide funds.

**7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to the Authority by way of grants such sums of money as may be required for the effective implementation of the provisions of this Act.**

Act to supplement other laws.

**8.** The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force dealing with the subject matter of this Act.

Power to make rules.

**9.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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STATEMENT OF OBJECTS AND REASONS

Our country has many rivers and there are several cities and villages near their banks. These rivers give much required water for drinking and other purposes and for irrigation purposes to grow crops in major parts of the country. On many rivers, dams have been constructed to generate hydro-power to meet the power demands of our vast nation. The water stored in these dams is also used for drinking and irrigation purposes.

Similarly, large number of reservoirs have been constructed across the country which store rainwater which is used for drinking and other purposes. For instance, Mumbai, the financial capital of the nation and a metropolitan city is mainly dependent on nearby reservoirs for its daily water supply and so is the case of other cities in the State of Maharashtra and other parts of the country.

However, the holy rivers which provide water for our lifeline also bring havoc and destructions through floods. One of the main reasons for flooding of these rivers is deposit of huge quantities of silt in them which has substantially reduced their water holding capacity resulting in floods.

Similarly, large quantities of silt deposited in dams and reservoirs across the country which has substantially reduced their capacity to hold water in them. As a result, for instance, when summer approaches the water level in reservoirs near Mumbai goes down substantially resulting in severe water crisis and this happens almost every year. Since the rivers, dams, reservoirs, etc. in the country are never desilted, the situation is becoming from bad to worst. Floods are causing huge losses of human lives, properties, crops, livestock and bring miseries to the people year after year. Similarly, huge deposits of silt in dams and reservoirs is causing severe water crisis for drinking as well as irrigation purposes. Hence, it has become obvious for periodical desiltation of rivers, dams and reservoirs in the country. It is felt that every river, dam and reservoir must be desilted once in every five year. For this purpose, an Authority be established at the national level to ensure desiltation of these water bodies as per time schedule.

Hence this Bill.

RAJKUMAR DHOOT

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of National Desiltation Authority of India. Clause 7 makes it mandatory for the Central Government to provide required funds to the Authority. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible to quantify the amount at this stage but it is estimated that a sum of rupees fifty thousand crore may involve as recurring expenditure per annum.

Since large number of modern machines, vehicles, equipments, etc. have to be put in place, a non-recurring expenditure to the tune of rupees one lakh crore may also involve from the Consolidated Fund of India.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is therefore of normal character.

## VII

## BILL NO. XLII OF 2019

*A Bill to provide for measures to control the population in the country and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1.** (1) This Act may be called as the Population Control Act, 2019.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** In this Act unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State, and in all other cases, the Central Government.

(b) "Committee" means the District Population Stabilisation Committee set up under section 5;

(c) "employee of Union Government", means any person who is serving in connection with the affairs of the Central Government or in any undertaking or organization under the control of the Central Government.

(d) "Fund" means the National Population Stabilisation Fund constituted under section 10; and

(e) "prescribed" means prescribed by the rules made under this Act.

Act to apply to married couples.

**3.** Notwithstanding anything contained in any other law for the time being in force, this Act shall be applicable only to married couples, where the boy is not less than twenty-one years of age and the girl is not less than eighteen years of age.

Availability of contraceptive.

**4.** The Central Government shall ensure that contraceptives are available at reasonable rates at all sub-health centres in the country.

Setting of District Population Stabilisation Committee.

**5. (1)** The appropriate Government shall set up district level monitoring committee to be known as District Population Stabilisation Committee in hundred districts with the highest recorded population growth rates for the purpose of this Act.

(2) The Committee shall consist of;

(a) the Chief Medical Officer of the district;

(b) the District Collector; and

(c) one representative from each Panchayat Samiti in the district.

(3) The Committee shall take steps to encourage the use of contraceptives and control the population growth rate in their concerned district in such manner as may be prescribed.

Benefits on undergoing sterilisation operation by married couples with only one child.

**6.** If both the husband and the wife in the case of a married couple, who have only one child, voluntarily undergo sterilization operation the appropriate Government shall provide them with the following benefits, namely:—

(a) preference to the single child for admission in institutes of Higher Education;

(b) preference for selection to the single child in Government jobs; and

(c) such other benefits that may be prescribed by the appropriate Government.

Additional benefits for married couples living below the poverty line.

**7.** If both the husband and the wife in the case of a married couple who are living below the poverty line and having only one child, voluntarily undergo sterilization operation, in addition to the benefits granted under section 6 by the appropriate Government, such married couple shall be eligible for payment from Central Government a one time lump sum amount of sixty thousand rupees if the single child is a boy or one lakh rupees if the single child is a girl.

Dismenatives for the married couples with more than two children.

**8.** Both the husband and the wife in the case of a married couple, who have more than two children shall be debarred from:—

(a) contesting in Lok Sabha, State Legislature, and Panchayati elections;

(b) getting elected to the Rajya Sabha, the State Legislative Councils, and similar elective representative bodies;

(c) getting promotion in government service;

(d) applying to 'Group A' posts under the Central and State Government; and

(e) receiving any kind of Government subsidy, in case the married couple falls in the Above Poverty Line category.

- 9.** The appropriate Government shall introduce a compulsory subject relating to population control in all senior secondary schools in States where the average fertility rate is more than the replacement level of 2.1 children per women. Introduction of compulsory subject on population control.
- 10.** (1) There shall be constituted a fund called the National Population Stabilisation Fund by the Central Government. Constitution of National Population Stabilisation Fund.
- (2) The Central Government and the State Governments shall contribute to the fund in such a ratio as may be prescribed by the Central Government:
- Provided that the ratio shall be such that the states with higher fertility rate shall contribute in higher proportion compared to the State with lower fertility rate.
- (3) The money collected under the Fund shall be redistributed to the States and Union Territories that have implemented reforms to control population and have been able to significantly reduce their population growth rate, in such manner as may be prescribed.
- 11.** The Central Government shall provide adequate funds after due appropriation made by Parliament by law in this behalf, from time to time, for carrying out the purposes of this Act. Central Government to provide funds.
- 12.** (1) After one year from the commencement of this Act, all employees of the Central Government shall submit an undertaking in writing to the respective appointing authority that they shall not procreate more than two children: Undertaking by the Government employees.
- Provided that the employees who already have more than two children at the commencement of the Act shall submit an undertaking that they shall not procreate any more children.
- 13.** The employees of the Central Government already having two living children may be allowed to procreate one more child in case of disability of living child or any other circumstances as may be prescribed. Miscellaneous provisions.
- (2) An employee of the Central Government whose action is found to be in violation of any provision of this Act shall be liable for dismissal from service.
- 14.** The Central Government may, by notification in the Official Gazette, make rules for carrying the purpose of this Act. Power to make rules.
- 15.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Overriding effect of the Act.

## STATEMENTS OF OBJECTS AND REASONS

India is projected to become the world's most populous country by 2024. Currently, India every year adds 15 million people to its population base by far the largest in the world. The problematic aspect is that India accounts for about 17 per cent. of the world population worth only 2.2 per cent. of the world's land mass. The increasing population has resulted in an increasing pressure on the country's limited natural resources. As a result, we have witnessed a range of socio-economic issues in the past few decades such as large-scale environmental degradation, urban air pollution and the reduction in the size of agricultural holdings. Additionally, the state of the infrastructure in the country has failed to meet the demands of the growing population. Most parts of the country are suffering due to absence of basic education and health facilities.

In the past three decades, India has made significant progress in decreasing population growth. As per the World Bank, the fertility rate in the country has decreased from 4.97 in 1975 to nearly 2.4 in 2015. It is expected in the coming decade the fertility rate in India will soon reach the replacement level of 2.1. However, despite the decrease in fertility rate, according to United Nations World Population Prospects report India's population will continue to increase up till 2050. Given the array of socio-economic issues arising as a result of over population, it is important that India as a country starts focusing on steps to decrease population rather than just stabilising it. Additionally, the population growth is very uneven across the country. While some state have successfully been able to stabilize their population, northern states have witnessed and continue to witness high population growth. It is essential to focus on specific districts with high population growth rates to tackle the problem effectively.

The Bill, therefore, seeks to introduce incentives for population control and provides for constitution of National Population Stabilisation Fund. It is vital for us to realize that population control and enforcement of two child norms for central government employees are immediate measures, however steps such as providing contraceptives and encouraging family planning can possibly play a stronger role in decreasing the population growth rate in the long run.

Hence this Bill.

DR. ABHISHEK MANU SINGHVI



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FINANCIAL MEMORANDUM

Clause 6 of provides for establishment of District Population Stabilization Committees that would work to provide assistance and information regarding population control. Clause 7 provides for lump sum cash amount to be given to married couples living below poverty line as an incentive for pupulation control. Clause 9 provides for the introduction of a compulsory subject on population control in schools of certain districts. Clause 5 provides for the establishment of the National Population Stabilization Fund. Clause 11 provides that the Central Government shall provide funds for carrying out the purposes of the Act. The Central Government shall have to incur some expenditure for implementing the provisions of this Bill in respect of Union territories. The State Government will incur expenditure in respect of their States out of their respective consolidated funds. The Bill, therefore, if enacted, would involve an annual recurring expenditure of about rupees five hundred crore per annum from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of details only, the delegation of legislative power is of normal character.

## VIII

## BILL NO. LIX OF 2019

*A Bill to provide for protection of rights of consumers against marketing of products and services through e-commerce and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the E-Commerce (Regulation) Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "e-commerce" means buying or selling of products or services by digital or electronic network;

(b) "observation period" means a fixed time period given to a consumer to examine the products or services availed by him through e-commerce without inviting any liabilities; and

(c) words and expressions, used but not defined under this Act, shall have the same meaning as assigned to them under the Consumer Protection Act, 2019.

35 of 2019.

3. (1) Every consumer who buys or sells any product or opts for any service through e-commerce shall have an observation period of fifteen days from the date of buying or selling of such product or service.

Right of consumer to return the product or service purchased through e-commerce.

(2) The consumer shall have the right to return the product or the service to the company offering the same within the observation period if he is not satisfied with the quality and performance of the product or service, without giving any reason for returning the product or refusing the service.

(3) The company which has offered the products or services shall refund the full amount, if any, charged for the same within seven working days from the date of return of product or refusal of service by the consumer within the observation period.

*Explanation.*—For the purpose of this sub-section "full amount" includes the packaging cost, delivery cost and the cost of returning the product.

(4) Every consumer shall have the right to get a full refund of money including the delivery charges, the cost of return or the installation charges, if the product or services purchased are found to be faulty.

4. (1) Every company shall give full and clear information including manufacturing date, expiry or best before date, about the product and services being offered through e-commerce.

Companies to give full and clear information to consumer regarding products and services.

(2) Any condition, agreement or contract whatsoever, shall not be enforceable by the company unless it gives the required information to the consumer, prior to purchase of the products or services.

5. (1) Whoever contravenes the provisions of this Act and the rules made thereunder shall be punishable with imprisonment for a term, which may extend upto one year or with fine, which may extend upto five lakh rupees or with both.

Penalty.

(2) Where a person committing a contravention of any of the provisions of this Act or of any rule, made thereunder is a company, every person who, at the time the contravention was committed, was in-charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to punishment, if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

*Explanation.*—for the purpose of this section:—

(i) "company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty;

Power to remove difficulties.

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Act not in  
derogation of  
other laws.

**7.** The provisions of this Act shall be in addition to, and not in derogation of the provisions in any other law, for the time being in force, relating to e-commerce selling.

Power to  
make rules.

**8. (1)** The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Indian is the fastest growing market for e-commerce sector. The e-commerce has transformed the way the business is done in India. The Indian e-commerce market is expected to grow to US \$ 200 billion by 2026 from the current US \$39 billion. Much growth of the industry has been triggered by increasing internet and smart phone penetration. The ongoing digital transformation in the country is expected to increase India's total internet users based to 829 million by 2021 from 604 million as of 2018. India's e-commerce revenue is expected to increase to US \$120 billion in 2020 from the present US \$ 39 billion, growing at an annual rate of 51 per cent, the highest in the world. The Government has announced various timely initiatives namely, digital India, make in India, Start up India, Skill India and Innovation Fund to support the e-commerce growth industry including increased participation of foreign players in the e-commerce field and other policy initiatives.

The emergence of supply chain, rise in trade and development in e-commerce have led to a new delivery system for goods and services and have provided opportunities for the customers. Equally the person who is buying goods or services through this e-commerce selling does not get any chance of a face to face contact with the person selling the goods and the opportunity to feel or examine it, hence there are chances that he may fall into a false trap. Many cases have been reported of this nature where the goods and services purchased by an individual do not match in quality and appearance with those displayed on television, magazines, hoarding, etc. This unfair trade and unethical business practice, misleading advertisement, telemarketing, direct selling and e-commerce pose new challenges to consumers rights and protection in our country. The Bill therefore, seeks to provide for the rights of the customer to return the goods or services purchased through e-commerce within the observation period of fifteen days without incurring any liabilities and imposing duties on the companies to provide full, fair and complete information to the customer while selling goods and services through e-commerce selling.

Hence this Bill

SHANTA CHHETRI

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

## IX

## BILL NO. LXXII OF 2019

*A Bill to decarbonise the Indian economy and to establish higher environmental standards for air, water and green spaces; to make provision to protect and restore natural habitats; and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Decarbonisation Act, 2019.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

Definitions.

2. In this Act unless the context otherwise requires,—

(a) "Chairperson" means the Chairperson of the National Board or, as the case may be, of the State Board;

(b) "decarbonisation" means the process by which the average amount of carbon in primary energy cycle reduces over a period of time;

(c) "Fund" means the national Decarbon fund constituted under Section 16;

(d) "economic equality" means an economy that responds to changes in the global context, moving towards a green economy which promotes the sustainable use of natural resources;

(e) "green economy" means economy that aims at reducing environmental risks and ecological scarcities, and that aims for sustainable development without degrading the environment.

(f) "local bodies" means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any other provision of the Constitution or any Central Act or State Act;

(g) "Member" means a Member of the National Board or a State Board, and includes the Chairperson;

(h) "National Board" mean the National Decarbon Board constituted under section 5;

(i) "notification" means a notification published in the Official Gazette;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "regulations" means regulations made under this Act;

(l) "State Government" in relation to Union Territory, means the Administrator of that Union Territory appointed by the President under article 239 of the Constitution;

(m) "State Board" means the State Decarbon Board constituted under section 13;

(n) "sustainable use" means the use of components of natural resources in such manner and at such rate that does not lead to the long-term decline of the natural resources thereby maintaining its potential to meet the needs and aspirations of present and future generations;

## CHAPTER II

### THE NATIONAL DECARBON BOARD

Constitution  
of the  
National  
Decarbon  
Board.

3. (1) The Central Government shall, within three months from the date of commencement of this Act, constitute a Board to be called the National Decarbon Board consisting of—

(a) the Prime Minister as Chairperson;

(b) the Union Minister of Environment, Forest and Climate Change as Vice-Chairperson;

(c) the Union Minister of Earth Sciences—Member;

(d) the Union Minister of Agriculture and Farmers Welfare—Member;

(e) the Union Minister of Power and New & Renewable Energy—Member;

(f) three Members of Parliament of whom two shall be from the House of the People and one from the Council of States—Member;

(g) Member, Niti Ayog in-charge of Forests and Wild Life—Member;



(h) three person to represent non-Governmental organizations to be nominated by the Central Government—Members;

(i) five person to be nominated by the Central Government amongst eminent conservationists, ecologists and environmentalists—Members;

(j) the Secretaries to the Government of India, in-charge of the Ministry or Department of the Central Government dealing with Environment, Forests and Climate Change—Members;

(k) the Secretaries to the Government of India, in-charge of the Ministry or Department of the Central Government dealing with Agriculture—Members;

(l) the Secretary to the Government of India, in-charge of the Department of Expenditure, Ministry of Finance—Member;

(m) the Secretary to the Government of India, in-charge of Ministry of Power, New & Renewable Energy—Member;

(n) the Secretary to the Government of India, in-charge of Ministry of Mines—Member;

(o) the Director-General of Forests in the Ministry or Department of the Central Government dealing with Forests and Wild Life—Member;

(p) the Director-General, Indian Council for Forestry Research and Education—Member;

(q) the Director, Botanical Survey of India—Member;

(r) the Director, National Institute of Oceanography—Member;

(s) the Chairperson of the Central Pollution Control Board—Member;

(t) one representative each from nine States and Union Territories by rotation, to be nominated by the Central Government—Member; and

(u) the Director of Environment Research who shall be the Member—Secretary.

(2) The term of office of the members other than those who are members *ex-officio*, the manner of filling vacancies referred to in clauses (h) and (i) of sub-section (1), and the procedure to be followed in the discharge of their functions by the Members of the National Decarbon Board shall be such, as may be prescribed.

**(3) The members, except members ex-officio shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.**

(4) Notwithstanding anything contained in any other law for the time being in force, the office of a Member of the National Board shall not be deemed to be an office of profit.

**4. (1)** It shall be the duty of the National Board to ensure that by 2030 and thereafter every subsequent year the decarbonisation objective is met; and the economic equality shall be met in a manner consistent with meeting the decarbonisation objective, by such measures as it thinks fit.

Functions of  
the National  
Board.

(2) Without prejudice to the generality of the foregoing provision, the measures referred to therein may provide for—

(a) framing policies and advising the Central Government and the State Governments on the ways and means to achieve zero net India carbon emissions; and to restore, protect and prevent further loss of natural habitats and biodiversity;

(b) making recommendations on achieving and management of overall social and economic well-being; and

(c) ensuring year-on-year reductions in:—

- (i) income inequality,
- (ii) wealth inequality, and
- (iii) inequality of opportunity;

(d) carrying out or causing to be carried out impact assessment of various projects and activities on air, water, green spaces and restore natural habitats;

(e) reviewing the progress of decarbonisation of economy in the country and suggesting measures for improvement life in the country from time to time;

(f) promoting international policies which are consistent with the objectives in sub-section (1), while ensuring that such objectives are not met by transferring carbon emissions or economic inequality to other jurisdictions, and also promoting increased decarbonisation and the eradication of inequality internationally;

(g) promoting decarbonisation and the eradication of inequality in international and regional forums including—

- (i) G8 and G20 summits,
- (ii) the World Trade Organization,
- (iii) the International Monetary Fund,
- (iv) the World Bank,
- (v) multilateral development banks, including the Asian Infrastructure Investment Bank,
- (vi) the United Nations Conference on Trade and Development, and
- (vii) the United Nations; and

(h) preparing and publishing a status report at least once a year on decarbonisation in the country.

Meetings of  
National  
Board.

**5.** (1) The National Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings, including the quorum at its meetings, as may be prescribed.

(2) The Chairperson shall preside at the meetings of the National Board;

(3) If for any reason the Chairperson is unable to attend any meeting of the National Board, Vice-Chairperson of the National Board shall preside at the meeting;

(4) All questions which come before any meeting of the National Board shall be decided by a majority of votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Every Member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the Member concerned or interested shall not attend that meeting.

(6) No act or proceeding of the National Board shall be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the National Board; or
- (b) any defect in the appointment of a person acting as a Member; or
- (c) any irregularity in the procedure of the National Board not affecting the merits of the case.

6. The Central Government may remove from the National Board any Member who, in its opinion, has—

Removal of Members.

(a) been adjudged as an insolvent; or

(b) been convicted of an offence which involves moral turpitude; or

(c) become physically or mentally incapable of acting as a Member; or

(d) so abused his position as to render his continuance in office detrimental to the public interest; or

(e) acquired such financial or other interest as is likely to affect prejudicially his functions as a Member.

7. The term of office and conditions of service of the Chairperson and the other Members other than *ex-officio* Members of the National Board shall be such as may be prescribed by the Central Government.

Conditions of service of Chairperson and Members.

8. The Chairperson shall be the Chief Executive of the National Board and shall exercise such powers and perform such duties, as may be prescribed.

Chairperson to be Chief Executive of National Board.

9. (1) The National Board may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

Officers and employees of National Board.

(2) The terms and conditions of service of such officers and other employees of the National Board shall be such as may be specified by regulations.

10. The salaries and allowances payable to the members and the administrative expenses of the National Decarbon Board including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Board shall be defrayed out of the Consolidated Fund of India.

Expenses of National Board to be defrayed out of the Consolidated Fund of India.

### CHAPTER III

#### THE STATE DECARBON BOARD

11. (1) Every State Government shall, within a period of six months from the date of commencement of this Act, constitute a State Decarbon Board consisting of the following members, namely:—

Constitution of State Decarbon Board.

(a) the Chief Minister of State and in case of the Union Territory, either Chief Minister or Administrator, as the case may be — Chairperson;

(b) the State Minister of Environment, Forest and Climate Change as Vice-Chairperson;

(c) the State Minister of Agriculture — Member;

(d) three Members of the State Legislature or in the case of a Union Territory with legislature, two members of the Legislative Assembly of that Union Territory.

(e) three persons to represent non-governmental organisations dealing with Environment to be nominated by the State Government—Members;

(f) ten persons to be nominated by the State Government from amongst eminent conservationists, ecologists and environmentalists including at least two agriculturists—Members;

(g) the Secretary to the State Government or the Government of the Union Territory, as the case may be, in-charge Environment—Member;

**(h) the Secretary to the State Government or the Government of the Union Territory, as the case may be, in-charge Agriculture—Member;**

**(i) the Secretary to the State Government, Department of Earth Sciences—Member;**

**(j) the Secretary to the State Government, Department of Power, New & Renewable Energy—Member;**

**(k) the Secretary of State of Ministry of Mines—Member;**

**(l) an officer of the State Police Department not below the rank of Inspector-General—Member;**

**(m) a representative of the Botanical Survey of India—Member; to be nominated by the State Government;**

**(n) the Chairperson of the State Pollution Control Board—Member.**

(2) The term of office of the Members other than those who are members *ex-officio* and the manner of filling vacancies referred to in clauses (e) and (f) of sub-section (1) and procedure to be followed shall be such, as may be prescribed.

**(3) The Member, except members *ex-officio*, shall be entitled to receive such allowances in respect of expenses incurred in the performance of their duties as may be prescribed.**

Procedure to be followed by the State Board.

**12. (1)** The State Board shall meet atleast twice a year at such place as the State Government may direct.

(2) The State Board shall regulate its own procedure, including the quorum in such manner as may be prescribed.

(3) No act or proceeding of the State Board shall be invalid merely by reason of the existence of any vacancy therein or any defect in the constitution thereof or any irregularity in the procedure of the State Board not affecting the merits of the case.

Duties of State Board.

**13. (1)** It shall be the duty of the State Board to advise the State Governments;

(a) the manner to ensure that by 2030 and every subsequent year—

(i) the decarbonisation objective is met; and

(ii) the economic equality objective is met in a manner consistent with meeting the decarbonisation objective;

(b) in formulation of the policy for net India carbon emissions to be zero;

(c) in the manner to restore, protect and prevent further loss of natural habitats and biodiversity;

(d) in achieving the economic equality objective in relation to—

(i) increasing overall social and economic well-being; and

(ii) ensuring year-on-year reductions in—

(a) income inequality,

(b) wealth inequality, and

(c) inequality of opportunity;

(e) in the manner to improve the energy efficiency of every building so far as is possible, including through the incorporation of power generation;

(f) in the manner of building new affordable zero carbon housing to meet social needs;

(g) in the promotion of the use of walking, cycling, co-operative and public transport for all journeys;

(h) in investment in new and existing net zero carbon methods of energy generation, transmission and distribution;

(i) in agroecological farming;

(j) in the restoration of soil and degraded peatlands; and

(k) in alternative and reduced forms of consumption, including measures to—

(i) reduce air travel,

(ii) promote the use of low and no carbon means of transport,

(iii) restrict the use of carbon fuel-based transport,

(iv) restrict the use of single-use plastics and other packaging,

(v) reduce the consumption of meat and dairy foods, and

(vi) reduce the carbon impact of consumer products;

(l) in building enhanced flood defences, with a focus on natural flood management;

(m) in reducing the use of water;

(n) in improving the quality of that water;

(o) in reforestation, agroforestry and the planting of trees in urban areas;

(p) in rewilding the environment, creating and restoring habitats;

(q) in improving air quality;

(r) in improving and expanding green spaces in villages, towns and cities;

(s) in annual audits of biodiversity;

(t) in reducing pesticide use;

(u) in supporting the transition to farming systems that do not rely on agrochemicals;

(v) in manner of finance for carbon-neutral development;

(w) in finding ways to clean energy development;

(x) in manner to transfer of export finance from fossil fuel projects to clean energy projects; and

(y) in any other matter connected with the decarbonisation which may be referred to it by a State Government.

(2) The State Board shall also perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

**14.** The provisions of section 6 to 10 shall apply to a State Board and shall have effect subject to the following modifications, namely:

(a) references to the Central Government shall be construed as references to the State Government;

(b) references to the National Board shall be construed as references to the State Board;

(c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

Provisions of sections 6 to 10 to apply with modifications to State Board.

## CHAPTER IV

## FINANCE, ACCOUNTS, AUDIT AND REPORT OF NATIONAL BOARD

Grants or  
loans by the  
Central  
Government.

**15. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Decarbon Board by way of grants or loans such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.**

Constitution  
of National  
Decarbon  
Fund.

**16. (1) There shall be constituted a Fund to be called the National Decarbon Fund and there shall be credited thereto—**

**(a) any grants and loans made to the National Board;**

**(b) all charges and royalties received by the National Board under this Act; and**

**(c) all sums received by the National Board from such other sources as may be specified by the Central Government.**

**(2) The Fund shall be utilized for the following purposes, namely,—**

**(a) channeling benefits to the benefit claimers;**

**(b) promoting and to establish higher environmental standards for air, water and green spaces; or knowledge associated thereto has been accessed;**

**(c) exploring ways and means to decarbonise economy and eradicate inequality;**

**(d) making provision to protect and restore natural habitats and of other areas, in consultation with the local bodies concerned.**

Annual report  
of National  
Board.

**17. The National Board shall prepare, in such form and at such time in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors report thereon.**

Budget  
accounts and  
audit.

**18. (1) The National Board shall prepare a budget, maintain proper accounts and other relevant records, including the accounts and other relevant records of the Fund and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.**

**(2) The accounts of the National Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Board to the Comptroller and Auditor-General of India.**

**(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Board.**

**(4) The accounts of the National Board, as certified by the Comptroller and Auditor-General of India, or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government.**

Annual  
Report.

**19. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received from the National Board, before each House of Parliament.**

## CHAPTER V

## FINANCE, ACCOUNTS, AUDIT AND REPORT OF STATE BOARD

**20.** The State Governments may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Board by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

Grants of money by State Governments to State Board.

**21. (1)** There shall be constituted a Fund to be called the State Decarbon Fund and there shall be credited thereto—

Constitution of State Decarbon Fund.

(a) any grants and loans made to the State Decarbon Board;

(b) any grants or loans made by the National Board; and

(c) all sums received by the State Board from such other sources as may be decided upon by the State Government.

**(2)** The State Decarbon Fund shall be utilized for the following purposes, namely:—

(a) exploring ways and means to reduce carbon emissions to be zero;

(b) finding way to achieve the goals set in sub-section (1) and (2) of section 15;

(c) moving towards green economy which promotes the sustainable use of natural resources;

(d) restoring, protecting and preventing further loss of natural habitats and biodiversity, in consultation with the local bodies concerned; and

(e) meeting the expenses incurred for the purposes authorized by this Act.

**22.** The State Board shall prepare, in such form and at such time, in each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Annual report of State Board.

**23.** The accounts of the State Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the State Board shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

Audit of accounts of State Board.

**24.** The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received from the State Board, before the House of State Legislature.

Annual Report of State Board to be laid before State Legislature.

## CHAPTER VI

## MISCELLANEOUS

**25. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

**(2)** Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

Indiscriminate exploitation of nature's resources has led to global ecological crises. The unsustainable development policies in India, have led our country into a real predicament.

India is the world's third largest emitter of greenhouse gases (GHGs) in the world. Our GHG emissions in 2015 stood at 3,571 million tonnes of CO<sub>2</sub> equivalent (MtCO<sub>2</sub>e), according to data compiled by the Potsdam Institute for Climate Impact Research (PIK). These emissions have increased over three-fold since 1970. Moreover, our per capita emission stood at 2.7tCO<sub>2</sub>e in 2015. We are also the world's second largest coal consumer.

According to a recent report in the Lancet Planetary Health, one in every eight deaths in India is due to air pollution. It is projected that by year 2050, the Indian industrial sector would account for one-third of India's carbon dioxide emissions.

Further India is also very vulnerable to climate change, notably due to the melting of the Himalayan glaciers and changes to the monsoon. Even sea levels risen by 1.3 millimeters annually along the Indian coasts during the past 40-50 years resulting in coastal hazards such as storm surge, tsunami, coastal floods, high waves and erosion in the low-lying areas in addition to causing gradual loss of land to the sea. Because of global warming, the world is one degree Celsius warmer than it was before the industrial revolution.

Despite India portraying itself as a responsible participant in international climate politics, at domestic level, we continue to witness depletion of groundwater level and green cover.

To tackle the above mentioned problems the Bill provides for—

(a) Constitution of a National Decarbon Board and State Decarbon Board to decarbonise the Indian economy and to eradicate inequality; to establish a ten-year economic and public investment strategy that prioritizes decarbonisation, community and employee-led transition from high-carbon to low-and zero-carbon industry and the eradication of inequality;

(b) for establishment of higher environmental standards for air, water and green spaces; to make provision to protect and restore natural habitats; and for connected purposes.

(c) social responsibility towards our next generation; and

(d) preventing global warming reducing greenhouse gas emission.

Hence, this Bill.

SHANTACHHETRI



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FINANCIAL MEMORANDUM

Clause 3 provides for the constitution of the National Decarbon Board to frame policy to decarbonise the Indian economy and to establish higher environmental standards for air, water and green spaces; to make provision to protect and restore natural habitats. It also provides for appointment of representatives of non-governmental organizations, etc. to the National Decarbon Boards.

Clause 10 provides for defrayment of expenses of National Decarbon Board out of the consolidated Fund of India.

Clause 11 provides for the constitution of the State Decarbon Board to ensure that decarbonisation and the economic equality objective is met in a manner consistent with meeting the decarbonisation objective and in formulation of the policy for net India carbon emissions to be zero.

Clause 16 provide for setting up the National Decarbon Fund.

The expenditure relating to States shall be borne from the Consolidated Fund of the State concerned. Whereas the expenditure in respect of the Union territory shall be borne from the Consolidated Fund of India. The Bill, therefore, if enacted, will involve recurring expenditure of rupees One thousand crore per annum from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees Fifteen Hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 empowers the Central Government to make rules for carrying out the purposes of this Act. As the delegation of powers shall relate to matters of details only, the delegation of legislative power is of normal character.

## X

## BILL NO. LVIII OF 2019

*A Bill to conserve the iconic Old Delhi located in the heart of the National Capital Territory of Delhi and to provide for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title and  
commencement.

1. (1) This Act may be called the Old Delhi Conservation Authority Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise required,—

(a) "Authority" means the Old Delhi Conservation Authority established under section 3 of the Act.

(b) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not;

(c) "building operations" includes rebuilding operations, structural alterations of, or additions to, buildings and other operations normally undertaken in connection with the construction of buildings;

(d) "development" with its grammatical variations means the carrying out in a building, engineering, mining or other operations or in, on, over or under the land or the making of any material change in any building or land and includes re-development;

(e) "establishment" means,-

(i) any body or authority established by or under a Central Act or a State Act or an authority or a body owned or controlled or aided by the Government or a local authority, or a Government company as defined in section 2 of the Companies Act, 2013, and includes a Department of the Government; or

(ii) any company or body corporate or association or body of individuals, firm, cooperative or other society, association, trust, agency, institution;

(f) "local authority" means the municipal corporation or municipality or Panchayat or any other local body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;

(g) "Old Delhi" means all public areas localities, colonies, residential and commercial structures, etc. falling within such zone as may be demarcated by notification in the official gazette by the Central Government from time to time;

(h) "prescribed" means prescribed by rules made under this Act.

## CHAPTER II

### THE OLD DELHI CONSERVATION AUTHORITY

**3. The Central Government shall, by notification in the Official Gazette, constitute an Authority to be known as the Old Delhi Conservation Authority to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.**

Constitution of the Old Delhi Conservation Authority.

**4. The Authority shall consist of,—**

Composition of the Authority.

(a) a person of repute having experience in the field of heritage conservation to be nominated by the Central Government, as Chairperson; and

(b) the following persons as members:—

(i) a representative of the Delhi Development Authority nominated by the Lieutenant Governor;

(ii) a representative each of the Delhi Urban Arts Commission, the Disaster Management Centre, Government of National Capital Territory of Delhi, and the Archeological Survey of India, to be nominated by the Central Government;

(iii) a reputed historian who has been working for the conservation of Old Delhi to be nominated by the Central Government;

(iv) two reputed architects with experience in heritage conservation to be nominated by the Central Government; and

(v) a representative each of the BSES Rajdhani Power Limited, the Delhi Jal Board, the Public Works Department, and the North Delhi Municipal Corporation of Delhi; and

(vi) **Shahjahanabad Redevelopment Corporation, to be nominated by the Government of NCT of Delhi.**

(2) **The salaries and allowances payable to and other terms and conditions of service of the Chairperson and other members of the Authority shall be such, as may be prescribed.**

(3) **The Authority shall have a Secretariat with such number of officers and staff headed by a Secretary who shall be the Member Secretary to the Authority, with such terms and conditions of service, as may be prescribed from time to time.**

(4) **The Authority shall observe such procedure in the transaction of its business as may be prescribed.**

Functions of  
the Authority.

**5. The Authority shall perform the following functions, namely to,—**

(a) act as the statutory body in the matter of preserving, developing and maintaining the aesthetic quality of heritage of the Old Delhi.

(b) supervise, regulate and oversee local authorities or establishments in respect of any project of building operations or engineering operations or any redevelopment proposal undertaken which are likely to affect or shall affect the aesthetic quality of any building or structure of historical significance in Old Delhi;

(c) tag all the heritage buildings or structures in Old Delhi and maintain a register of these buildings or structure in such manner as may be prescribed;

(d) grant funds to heritage structures or buildings including havelis, mosques, temples, gurudwaras, etc. for their renovation and restoration;

(e) take steps to conserve, preserve and beautify monumental buildings or structures in Old Delhi; and

(f) initiate any other project or lay-out to beautify and conserve the character of Old Delhi.

Power of  
Authority to  
reject  
redevelopment  
projects.

**6. The Authority shall have the power to reject or stop any redevelopment project undertaken by any establishment or local authority if it is satisfied that the project is not in public interest after recording the reasons thereof.**

### CHAPTER III

#### DUTIES OF ESTABLISHMENT AND LOCAL AUTHORITIES

Duty of  
Establishments  
and Local  
Authorities to  
Refer  
Development  
Proposals to  
the Authority.

**7. (1) Notwithstanding anything contained in any other law, for the time being in force, every establishment or local authority shall, before according approval in respect of any proposal for building operations, engineering operations or redevelopment or development work to be undertaken in Old Delhi, shall refer such proposal to the Authority for its scrutiny and the decision made by the Authority shall be binding, on such establishment or local authority.**

### CHAPTER IV

#### HERITAGE CELL

Establishment  
of a Heritage  
Cell.

**8. (1) A Heritage Cell shall be established under the Authority, in such manner as may be prescribed.**

(2) The Heritage Cell shall tag all the historically significant buildings or structures in Old Delhi in such manner as may be prescribed.

(3) The Heritage Cell shall regularly inspect all the historical buildings or structures and shall make periodic recommendations to the Authority for their upkeep and conservation.

## CHAPTER V

## MISCELLANEOUS

- 9.** Notwithstanding anything provided in the Memorandum and Articles of Association of Shahjahanabad Redevelopment Corporation, the Authority shall have the powers to make by-laws, regulations, and pass directions on the redevelopment, construction and renovation work with respect to Old Delhi. Overriding powers of the Authority.
- 10.** The recommendations made by the Authority shall be binding in nature on all the local authorities and establishments. Recommendations of the Authority to be binding in nature.
- 11.** The Authority shall take the recommendations of stakeholders into account before making any decision. Authority to take stakeholders' recommendations into account.
- 12.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Authority for its functioning as well as for the renovation, conservation, and redevelopment work carried on by the Authority. Central Government to provide funds to the Authority.
- 13.** The Authority shall have the powers to receive grants from international and national organisations working for heritage conservation. Authority to accept grants from international and national organisations.
- 14.** The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act. Power to make rules.
- 15.** The Authority may, for giving effect to the provisions of this Act or the rules thereunder, issue such directions to an establishment or a local authority, as it deems fit. Power to issue directions.

## STATEMENT OF OBJECTS AND REASONS

There are hundreds of old havelis, mosques, temples, bazaars, mohallas, chowks and streets in old Delhi area which rival the finest heritage cities in the world. Because of neglect and lack of funds these heritage structures and buildings are in dilapidated condition. To redevelop a part of Delhi, i.e., Chandni Chowk, a redevelopment project was initiated by the Government of NCT of Delhi. However, it has led to destroying the cultural and historical character. It is pertinent to conserve the character of Old Delhi during the course of its redevelopment in the future as well. Therefore, the Bill proposes establishment of Old Delhi Conservation Authority under the Central Government to ensure the planned development of Old Delhi while conserving its historical and cultural character.

The Old Delhi Conservation Authority shall be the exclusive authority to conserve, redevelop and maintain aesthetic quality of Old Delhi. The Shahjahanabad Redevelopment Corporation (SRDC), which is under the Government of NCT to Delhi, shall not have any powers or functions with respect to the conservation and redevelopment of Old Delhi. The Shahjahanabad Redevelopment Corporation shall not intervene in the functioning of the Authority and there shall be no overlap in the functions of the Authority and the Corporation.

The Old Delhi Conservation Authority shall also advise the North Delhi Municipal Corporation, the Disaster Management Centre, and any other corporations undertaking redevelopment work in Old Delhi. It shall take the opinion of stakeholders into account before confirming any development or redevelopment or conservation project. It shall also have a heritage cell which will ensure that heritage structures in Chandni Chowk retain their original Character.

Hence, this Bill.

VIJAYGOEL.

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FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to constitute an Authority for Conservation of Old Delhi. The creation of Authority as per section shall involve expenditure on account of office expenses, salaries and allowances of the staff clause 12 provides for funds to be made available by the Central Government for the functioning of the Authority.

2. Hence, the Bill, if enacted will involve expenditure from the Consolidated Fund of India. At this stage, it will be difficult to quantify the exact amount of expenditure of both recurring and non-recurring nature on account of the constitution of the Authority.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

The matters in respect of which rules may be made or notification may be issued are essentially matters of detail or procedure only. The delegation of legislative power, therefore, is of normal character.

## XI

## BILL No. LXV OF 2019

*A Bill to prohibit sale and promotion of multi-digit lotteries and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the Prohibition of Multi-Digit Lotteries Act, 2019.
- (2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires—

(a) "lottery" means a scheme, in whatever form, and by whatever name called, for distribution of prizes by lot or chance to persons participating in the lots or chances of a prize by purchasing tickets in proper form or through online;

(b) "multi-digit lottery" means a lottery in which prizes are distributed to participating persons on the chances of matching of more than single digit.



(c) "organization" means any local or other authority functioning under the control of the Central Government or a State Government and includes an undertaking established by or under a Central, or a State Act or which is controlled or financed wholly or substantially by funds, provided directly or indirectly by the Central Government or a State Government or a Government company as defined in the Companies Act, 2013.

18 of 2013.

**3.** No organization shall organize, conduct or promote multi-digit lottery or sell or distribute or put for sale any multi-digit lottery ticket either in paper form or through online, in any manner whatsoever or receive or remit any money in pursuance thereof.

Prohibition of  
Multi-digit  
Lotteries.

**4.** (1) Where any contravention of the provisions of Section 3 has been committed by any Department of the Central Government or a State Government or any other organization including companies or private individual, the Head of such Department or the person incharge of such organization, as the case may be, shall be guilty of offence and shall be liable to be proceeded against and punished under sub-section (3);

Penalty.

Provided that nothing contained in this section shall render such Head of the Department or such person incharge liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence,

(2) Notwithstanding anything contained in sub-section (1), where any offence under sub-section (1) has been committed by a Department of the Central Government or State Government or any organization and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of such Department or the person incharge or such organization, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Whoever commits an offence under sub-section (1) shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

2 of 1974.

**5.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973 an offence under this Act shall be cognizable and non-bailable.

Offences to be  
cognizable and  
non-bailable.

## STATEMENT OF OBJECTS AND REASONS

Lottery is species of gambling. It generates a false sense of security amongst the poor who get addicted to it and ruin their lives. The social cost of running lotteries was too high with the earning members of families getting addicted to lottery. At present, states including Kerala, Punjab, Maharashtra, Sikkim, Mizoram, Nagaland, Goa etc. promote lottery. These multidigit lotteries are now grappling the youth by entering through electronic media.

The first endeavour to ban lottery in India was in 1998 when the Parliament, cutting across party lines, unanimously enacted the Lotteries (Regulation) Act, 1998 (Act No. 17 of 1998). The 1998 Act in addition to regulating lotteries, banned the single digit lottery and pre-announced number lotteries. Such was the momentum around the 1998 Act that Members of Parliament who had participated in the debate had asked the Central Government to bring a law banning multi-digit lottery as well.

The Bill proposes to ban all forms of multi-digit lottery including its online form across the country with a view to ensure that gullible people are not entrapped and looted by bogus claims of getting richer overnight.

Hence, this Bill.

VIJAY GOEL

## XII

## BILL NO. LXI OF 2019

*A Bill to provide for management, protection, administration and governance of Hindu shrines and religious places in the country and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Hindu Shrines and Religious Places (Management and Regulation) Act, 2019.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

**2.** In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in case of a State, the Government of that State and in all other cases, the Central Government.

(b) "Board" means Hindu Shrine Board constituted under section 4 of the Act;

(c) "*chadhawa*" means offerings made by the pilgrims at Hindu shrines and religious places including the offering made to anyone within the precincts of such shrines and places;

(d) "endowment" means all properties, movable or immovable belonging to or endowed for the maintenance, improvement, addition to or worship in the specified shrines or for the performance of any service or charity within the precinct of the shrines and lands and buildings attached or appurtenant thereto;

(e) "endowment fund" means the income or revenue received or receivable on account of any specified shrines and includes all donations, offerings and gifts as are received on behalf of or for the benefit of any specified shrines by the Management Committee or any other persons authorized by the committee as the case may be;

(f) "Hindu" means a person professing Hindu religion who is born at any place in India and also includes those persons who are born in the families of such person and are residing outside the country;

(g) "Hindu shrines and religious places" means the shrines temple, *ashram*, *devals*, *mutts* endowments, springs and hillocks and includes other religious places and shrines properties, both movable and immovable worshipped by Hindus;

(h) "Management Committee" means any Body or Authority or Committee, constituted under section 7, having the power to direct or control any or all of the operations of a place of worship;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "service" means a person who is in service of a religious place of worship if he or she has either been authorized by the Managing Committee or has been traditionally doing any type of work, either full-time or part-time, at or in relation to the Hindu shrines and religious places, irrespective of whether he or she is receiving or not receiving any remuneration for the work.

Survey of  
Hindu shrines  
and religious  
places.

3. (1) The Central Government may, by notification in the Official Gazette, appoint one or more Special Officers in every State, as may be necessary, for the purpose of making a survey of Hindu shrines and religious places in every State.

(2) The Special Officers shall be empowered to call for any information, document or record from any functionary of the appropriate Government or any other person or authority as may be considered necessary, for conducting the survey and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

5 of 1908.

(3) The Special Officer shall, after making such inquiry as he may deem necessary, submit a report to the Central Government in such manner, as may be prescribed.

(4) Any person aggrieved by an order of the Special Officer may prefer an appeal to the appropriate Government within sixty days from the date of the order.

Establishment  
of the Board.

4. (1) The Central Government shall by notification in the Official Gazette, constitute a Hindu Shrine Board to exercise the powers conferred on, and to perform the functions assigned to it, under the Act.

(2) The Board shall consist of a Chairperson and ten other members who shall be appointed by the Central Government in such manner as may be prescribed.

(3) The Board shall be a body corporate having perpetual succession and a common seal.

(4) The head office of the Board shall be at New Delhi.

(5) The Chairperson and members of the Board shall hold office for a period of three years and shall be eligible for re-nomination as the case may be,

(6) The Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings, as may be prescribed.

(7) The Board shall appoint such officers as it considers necessary with such designations, pay, allowances and other remuneration, from time to time as may be prescribed.

(8) The Board shall comply with such direction as may, from time to time, be given to it by the Central Government.

**5.** The functions of the Board shall be to,—

Functions.

(a) administer, manage and regulate the Hindu Shrines and religious places to preserve, protect and use the properties in accordance with the provisions of the Act;

(b) manage and administer the endowment fund in accordance with the provisions of the Act;

(c) arrange for the proper performance of worship at the shrine and to provide facilities to the pilgrims;

(d) undertake developmental activities concerning the area of the shrine and its surroundings including construction of buildings, sanitary work etc. for the benefit of pilgrims;

(e) make provisions of medical relief for pilgrims;

(f) make provisions for the payment of salaries, allowances and other payments to the staff from the endowment fund;

(g) make provisions for relief to the indigent and the destitute; and

(h) do all such other things as may be necessary under the Act.

**6.** The members of the Board shall be individually and collectively liable for the loss, waste or misappropriation of the endowment fund, if such loss, waste or misappropriation is a direct consequence of his willful act or omission and a suit for compensation may be instituted against him by the Board.

Liability of members.

**7. (1)** There shall be established a Management Committee for every State consisting of a Chairperson and nine members who shall be appointed by the appropriate Government in such manner as may be prescribed.

Establishment of Management Committee.

(2) The Chairperson and members of the Management Committee shall hold office for a period of three years and shall be eligible for re-nomination as the case may be,

(3) The provisions of the Act relating to the meeting of the Board shall apply, *mutatis mutandis* for conducting the meeting of the Management Committee.

(4) Subject to overall superintendence and control of the Board, a Management Committee shall have the same functions and exercise the same powers within the jurisdiction of the State concerned as are vested in the Board under section 5.

**8. (1)** It shall be lawful for the Board or the Management Committee or any other person authorized by the Board or the Management Committee in this behalf to seek or receive any donation, grants, offerings and *chadhawa* against proper receipts and the donations, grants, offerings and *chadhawa* so received shall be deposited in the endowment fund.

Endowment fund.

(2) The Board or the Management Committee, as the case may be, shall have the power to borrow money or raise loans for carrying out the objectives of the Act from banks, financial institutions and other corporate bodies and also have the powers to invest money not immediately required in such security, bonds, etc. as it may deem proper and necessary.

(3) Whoever solicits or receives any donations, grants, offerings and *chadhawa* in the name or on behalf of the Board or the Management Committee in contravention of the provisions of the Act shall be punishable with a fine which may extend to twenty thousand rupees or two times of the amount received, whichever is higher.

Penalty. **9.** (1) Whoever violates any provision of this Act shall be punishable with imprisonment for a term which may extend upto three years and fine or both.

(2) Misuse of income or asset of a Shrine or any religious place of worship as well as use of such income or asset without due authorization from the Board or the Management Committee shall be an offence under sub-section (2).

Bar to suits or proceedings. **10.** No suit or other proceedings shall lie in any court against the Board or its officers for anything done or purported to be done in good faith by it under this Act.

Audit and Annual report. **11.** (1) The accounts of the Board and the Management Committee for a financial year shall be audited annually by the Chartered Accountant to be appointed by the Board or the Management Committee as the case may be.

(2) The Board shall annually prepare a report on the administration of the affairs of the Shrine or any religious place of worship and submit it to the Central Government.

(3) The Central Government shall cause the annual report along with the statement if any laid in both the Houses of the Parliament.

Savings. **12.** The provisions of this Act shall have effect notwithstanding anything contrary contained in any other law for the time being in force.

Power to make rules. **13.** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

India is known for its temples as much as it is known for the cultural diversity. The Hindu religious places of worships like shrines, mandirs, abodes of particular idols, *mutts*, *devals*, *gaushalas*, *dharmshalas*, etc. are all well known and recognized by the Indian law. Constitutionally, India is secular country and has not State religion. However, it has developed over the years its own unique concept of secularism and is fundamentally different from the parallel concept of secularism requiring complete separation of Church and the State. Freedom of religion is guaranteed by the Constitution of India as a group right under article 26, 29 and 30 but right cannot be enjoyed in an absolute unrestricted way.

In India, many State Governments have taken over many Hindu shrines and religious places of worship. In many cases, Government representatives and nominees sit on the controlling bodies of these shrines and religious places of worship. In the absence of any norm or law in this regard, the principles of secularism are often violated. The Supreme Court has set the Constitutional parameters on the scope of the Government intervention in the day to day management of Hindu religious places of worship and opined that takeover of a Hindu shrines and religious places must be for a fixed period as it allows misappropriation of temple wealth, lands, and diversion for funds for non religious purposes. Therefore, the management of the temple must be handed back after the evil has been remedied.

It is, therefore, felt that a Central law is needed to make sure that the Hindu shrines and religious places of worship are independent and the funds collected by any Hindu shrines and religious places of worship are used in line with the tenets of Hindu religion or sect or community. Prominent persons and religious persons of a religion or sect or community have a say in managing affairs of their religious institutions and places of worship, and persons misusing religious institutions and places of worship for their personal ends should be punished.

Hence this Bill.

AJAY PRATAP SINGH

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Hindu Shrine Board including its Chairperson, Members and appointment of staff and empowers the appropriate Government to provide salaries and allowances for the functionaries of the Board. Clause 7 provides for the establishment of the Management Committee for every State. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India in respect of Union Territories. It is estimated that approximately a sum of rupees five thousand crore will be met by the Central Government as recurring expenditure in respect of the Board falling under its jurisdiction.

No non-recurring expenditure is likely to be involved.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.



## XIII

## BILL NO. LXXIII OF 2019

*A Bill to provide for a public credit registry to serve as a central repository of credit information and to facilitate efficient distribution of credit, increase financial inclusion, improve ease of doing business and control delinquencies and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Public Credit Registry of India Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context requires otherwise,—

(a) “borrower” means a person who has been granted credit or any other credit facility by a credit institution, and includes a client of a credit institution;

(b) “client” includes—

(i) a guarantor or a person who proposes to give guarantee or security for a borrower of a credit institution; or

Short title,  
extent and  
commencement.

Definitions.

(ii) a person who has obtained or seeks to obtain financial assistance from a credit institution or to raise money by security issues or whose financial standing is assessed by the Reserve Bank in such manner as may be prescribed;

(c) “credit application” means an application for providing credit made to a credit institution;

(d) “credit agreement” means an agreement made between a credit institution and a borrower;

(e) “credit information” means any information relating to—

(i) the amounts and the nature of loans or advances, amounts outstanding under credit cards and other credit facilities, both fund based and non-fund based, granted or to be granted, by a credit institution to any borrower and also includes the nature of security and the guarantee taken or proposed to be taken by a credit institution from any borrower for credit facilities granted or proposed to be granted to him;

(ii) any other matter as may be prescribed by the Reserve Bank to be collected and maintained by the Registry, in this behalf on the creditworthiness of any borrower of a credit institution;

(f) “credit report” means a communication, whether in written or electronic form prepared by the Registry using customer information provided by a credit institution, to assess the creditworthiness of a person, including information on the following,—

(i) the person’s history in relation to credit;

(ii) the person’s eligibility to be provided with credit;

(iii) the person’s capacity to repay credit provided to the person; or

(iv) the details of a person that is processed by the Registry in the course of its credit reporting business;

(g) “credit information company” means a company as defined in sub-section (20) of section 2 of the Companies Act, 2013 and which has been granted a certificate of registration under sub-section (2) of section 5 of the Credit Information Companies (Regulation) Act, 2005; 18 of 2013  
30 of 2005

(h) “credit institution” means a banking company and includes—

(i) a corresponding new bank, the State Bank of India, a Co-Operative Bank, the Nationalised Bank and Regional Rural Bank;

(ii) a non-banking financial company as defined under sub-section (f) of section 45-I of the Reserve Bank of India Act, 1934; 2 of 1934

(iii) a public financial institution referred to in section 4A of the Companies Act, 2013; 18 of 2013

(iv) a financial corporation established by a State under section 3 of the State Financial Corporation Act, 1951; 63 of 1951

(v) a housing finance institution referred to in sub-section (d) of section 2 of the National Housing Bank Act, 1987; 53 of 1987

(vi) a company engaged in the business of credit cards and other similar cards and a company dealing with distribution of credit in any other manner; and

(vii) any other institution which the Reserve Bank may specify, from time to time, for the purposes of this clause.

(i) “information systems” means data sheets related to banking, non-banking-corporate, as may be prescribed by the Reserve Bank.

(j) “notification” means a notification published in the Official Gazette of India;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “Registry” means the Public Credit Registry of India as provided under section 3 of this Act;

(m) “regulations” means regulations made by the Reserve Bank under this Act;

2 of 1934

(n) “Reserve Bank” means the Reserve Bank of India constituted by the Reserve Bank of India Act, 1934;

(o) “specified user” means any credit institution, and includes such other person or institution as may be specified by the Reserve Bank, for the purpose of obtaining credit information from the Registry;

(p) “specified” means specified by regulations made under this Act;

2 of 1934  
10 of 1949  
30 of 2005  
18 of 2013

(2) Words and expressions used herein and not defined in this Act but defined in the Reserve Bank of India Act, 1934 or the Banking Regulation Act, 1949 or the Credit Information Companies (Regulation) Act, 2005 or the Companies Act, 2013 shall have the meanings respectively assigned to them in those Acts.

## CHAPTER II

### PUBLIC CREDIT REGISTRY OF INDIA

3. (1) The Reserve Bank shall establish, maintain and operate a Registry to be known as the Public Credit Registry of India containing of data base of credit information of Borrowers.

Public Credit  
Registry of  
India.

(2) Without prejudice to the generality of the provisions in sub-section (1) the Reserve Bank shall hold on the Registry Personal credit information in relation to a borrower and its details linking any borrower who has availed loan or credit facility with any other borrower and shall also include other reports produced by the Reserve Bank, as may be specified.

(3) The Central Government shall appoint a Deputy Governor for looking after work of the Registry with the working background in the specialized Department of Statistics and Information Management of the Reserve Bank.

Appointment  
of additional  
Deputy  
Governor.

## CHAPTER III

### OPERATION OF THE REGISTRY

4. (1) The Reserve Bank may perform the following forms of business for operating the Registry, namely,—

Operation of  
the Registry.

(i) collecting, processing and collating credit information of related material events for each loan and information on trade and financial standing of the borrowers of the credit institution;

(ii) preparing credit report;

(iii) providing credit information to its specified users;

(iv) undertaking research project;

(v) providing interoperability and linkages with other information system.

(2) The Reserve Bank, for the purposes of operating the Registry may charge such reasonable fees for furnishing credit information to a specified user, as may be specified.

5. (1) Where the Reserve Bank is satisfied that in the interest of banks, banking policy, borrowers, general public etc., it is necessary to issue directions to credit institutions or specified users generally or to any credit institution or specified user in particular, it may, from time to time, issue such directions as it deems fit, and such credit institutions and specified users, as the case may be, shall be bound to comply with such directions and the Reserve Bank may also seek information pertaining to its business etc.

Power of  
Reserve Bank  
to give  
directions.

(2) The Reserve Bank may, modify or cancel any direction issued earlier for reasons to be recorded in writing.

Power of Reserve Bank to inspect credit institution and specified user.

**6.** (1) Notwithstanding anything contrary to any law for the time being in force, the Reserve Bank, may cause an inspection to be made, by one or more of its officers or through such other persons or agency as the Reserve Bank may determine, of the books and accounts of a credit institution or a specified user and the Reserve Bank shall supply to the credit institution or specified user, as the case may be, a copy of its report of such inspection.

(2) It shall be the duty of every director or other officer or employee of the credit institution or the specified user to produce to any officer or person or agency, as the case may be, performing inspection under sub-section (1), all such books, accounts and other documents etc.

(3) Any officer of the Reserve Bank or person or an agency making an inspection under sub-section (1) may examine on oath any director or other officer or employee of the credit institution or the specified user, in relation to their business, and may administer an oath accordingly.

(4) The expenses of, or incidental to the inspection carried out under sub-section (1), shall be borne by the concerned credit institution or specified user, as the case may be.

Furnishing of credit information by credit institution.

**7.** The Reserve Bank may, by notice in writing, in such form, as may be specified, require the credit institution, to furnish such credit information and such other information as it may deem necessary in accordance with the provisions of this Act.

Period for which information may be held on the Registry.

**8.** The Information including the personal and credit information related to a borrower held on the Registry shall be held on the Registry for such period as may be specified by the Reserve Bank.

Duty of credit institution to provide information.

**9.** (1) A credit institution shall provide to the Reserve Bank such personal information and credit information relating to a borrower as is required to be provided by regulations to be specified by the Reserve Bank.

(2) Any person or every credit institution may get the credit information from the Registry.

(3) The Credit institutions shall maintain one-month time line for updating information in the Registry if changes like addition or deletion has occurred at the base level credit data.

(4) The Reserve Bank shall change the data in the Registry on receiving of request from the credit institution or the specified users.

Access to information on the Registry.

**10.** (1) A credit institution or a specified user shall make a request to access information held on the Registry in such a manner as may be specified by the Reserve Bank.

(2) No person or institution shall have access to information from the Registry unless authorized by the Reserve Bank in such a manner or as may be specified.

Suspected impersonation and settlement of dispute.

**11.** The Reserve Bank shall specify the framework on suspected impersonation and the manner of setting of the dispute.

## CHAPTER IV

### INFORMATION, PRIVACY PRINCIPLES AND VERIFICATION OF IDENTITY OF BORROWERS

Accuracy and security of credit information.

**12.** (1) Each credit institution shall provide accurate, complete, duly protected against any loss or unauthorised access to the Reserve Bank.

(2) Every credit institution and specified user, shall adopt the privacy principles as may be notified by the Reserve Bank.

(3) Every credit institution shall take such steps as may be specified by regulations by the Reserve Bank to verify the identity of borrowers.

**13.** (1) The information collected and maintained by the Reserve Bank for the purpose of the Registry shall be confidential.

Confidentiality of information.

(2) A credit institution shall not disclose any information provided to the Reserve Bank under this Act:

Provided that this shall not prevent the Reserve Bank or credit institution from disclosing information held by it to the court, tribunal or authority, if it considers that such disclosure is necessary in public interest, or otherwise warranted in the circumstances of the case.

## CHAPTER V

### OFFENCE AND PENALTY

**14.** (1) Whoever contravenes the provisions of the Act shall be guilty of the Offence and shall be punished with imprisonment for a term which may extend to two years or with fine of rupees five lakh or with both.

Penalty.

(2) Where an offence under this Act has been committed by a company, the director or every person who at the time offence was committed was in-charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section,—

(a) “company” a body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

**15.** (1) The Central Government may by notification in the Official Gazette make rules for the purpose of this Act.

Power to make rules and regulations.

(2) The Reserve Bank in consultation with Government, may by notification in the Official Gazette, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(3) Every rule and every regulation made, and every notification issued, under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of this session immediately following the session or the successive session aforesaid, both Houses agree that the rule or regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.

**16.** (1) No suit or other legal proceedings or prosecution shall lie against the Reserve Bank or any credit institution or specified user, or their chairman, director, member, auditor, advisor, officer or other employee, or agent or any person authorised by the Reserve Bank or credit institution or specified user to discharge any function under this Act, for any loss or damage caused or as is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of this Act or any other law for the time being in force.

Protection of action taken in good faith.

(2) Nothing contained in sub-section (1) shall affect the right of any person to claim damages against the Reserve Bank, a credit institution or specified user or their chairperson, director, member, auditor, advisor, officer or other employee or agents, as

the case may be, in respect of loss caused to him on account of any such disclosure made by any one of them and which is unauthorised or fraudulent or contrary to provisions of this Act, or practices or usages customary among them.

Bar of jurisdiction.

**17.** No court or authority shall have, or be entitled to exercise, any jurisdiction, powers or authority, except the Supreme Court and a High Court exercising jurisdiction under articles 32, 226 and 227 of the Constitution, in relation to the matters referred to in the Act.

Power of the Central Government to exempt in certain cases.

**18.** (1) The Central Government may, on the recommendation of the Reserve Bank, by notification in the Official Gazette, direct that any or all of the provisions of this Act shall not apply to any credit institution or specified user, either generally or for such period and subject to such exceptions or modifications, as may be mentioned in that notification.

(2) Every notification issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both House agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Application of other laws not barred.

**19.** The provision of this Act shall be in addition to, and not, save as provided under this Act, in derogation of, the provisions of the Companies Act, 2013 or any other law for the time being in force. 18 of 2013

Removal of difficulties.

**20.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid as soon as may be after it is made, before each House of Parliament.

## STATEMENT OF OBJECTS AND REASONS

There is a need for an all-embracing database of credit information for all credit products in the country, from point of origination of credit to its termination (repayments, restructuring, default, resolution, etc.). It should, ultimately, be encompassing all lender-borrower accounts without a size threshold. As of today, information on borrowings from banks, non-banking financial companies (NBFCs), corporate bonds or debentures from the market, external commercial borrowings (ECBs), foreign currency convertible bonds (FCCBs), Masala bonds, and inter-corporate borrowings are not available in a single data repository. The main objective of the Bill is the creation of a Public Credit Registry to fill this lacuna and capture all the relevant information about a borrower, across different borrowing products, in one place. Moreover, significant parts of this Registry of borrowing contracts and repayment history will be accessible to all stakeholders provided they too share their data with the Public Credit Registry.

The Public Credit Registry in India can be conceived as a data infrastructure that the financial ecosystem within and outside the Reserve Bank would be drawing data from as per the Public Credit Registry's access policy. The prospective users will include lenders like banks and non-bank lenders including the new "fin-tech" lenders; others providing data analytics such as rating agencies and credit information companies; as well as regulators.

Our economy faced difficulties in the context of the corporate non-performing assets (NPA) problem since last 6-7 years. In spite of the private credit bureaus operating for several years and doing a vital job for retail credit scoring, the regulator could not precisely assemble data on the quality of the credit portfolio of banks' large borrowers at an aggregate level. The data are simply not being reported with integrity and full coverage in case of large corporate borrowers. That is where RBI's Central Repository of Information on Large Credits (CRILC), initiated in 2014, made a huge difference. Although it was behind the curve, CRILC provides a timely window on any degradation of credit of a large borrower at a bank to the central bank and to other banks having the same entity as a borrower. It shows that credit information system, as a whole, has many such gaps and it leaves much scope for improvement and the Public Credit Registry will fill the gap.

The Public Credit Registry can also support the reporting entities in credit risk assessment by allowing them access to aggregated information about the indebtedness of their actual and potential borrowers. Under the legal framework, the Public Credit Registry can provide information which can also be utilised for discharging essential functions of the central bank, namely banking supervision, financial stability, monetary policy, research and statistics.

Hence, this Bill.

RAKESH SINHA

## FINANCIAL MEMORANDUM

Sub-section 3 of section 3 empowers the Central Government to appoint an additional Deputy Governor of the Reserve Bank for looking after work of the Registry. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees one crore may be involved. No non-recurring expenditure to the tune of rupees fifty lakh will also be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empower the Central Government and the Reserve Bank of India to make rules/regulations to carry out the provision of the Bill. The rules so framed would pertain to matters of administrative detail only, which cannot be laid down in the Bill itself. The delegation, is therefore, normal in character.



## XIV

## BILL NO. LV OF 2019

*A Bill to provide for a framework to enable the country to achieve its goal of eliminating single-use plastic by the year 2022 and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Single-Use Plastic (Regulation) Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

Short title,  
extent and  
commence-  
ment.

Definitions.

(b) "higher education institution" includes institutions imparting education on completion of senior secondary level;

(c) "plastic" means material which contains as an essential ingredient, a high polymer such as polyethylene terephthalate, high density polyethylene, vinyl, low density polyethylene, polypropylene, polystyrene resins or multimaterials like acrylonitrile butadiene styrene, polyethylene oxide, polycarbonate or polybutylene terephthalate;

(d) "plastic packaging" means all products which are—

(i) used for the containment, protection handling, delivery and presentation of goods; and

(ii) partly or wholly composed of plastic;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "recycle" means the reprocessing in a production process of the waste materials of a plastic product for the original purpose or for other purposes;

(g) "reuse" means any operation by which a plastic product, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived; and

(h) "single-use plastic" means any disposable plastic item which is designed to be used only once before it is thrown out or recycled and includes plastic spoons, forks and knives, plastic shopping bags, plastic coffee or tea cups and glasses, lids, plastic water bottles, styrofoam, plastic take out containers and plastic straws.

Plastic  
elimination  
target and  
control  
policy.

**3.** The Central Government shall, within six months from the commencement of this Act,—

(a) prescribe a target of complete elimination of plastic waste in accordance with international obligations;

(b) specify the year 2022 target year to implement a complete ban on single-use plastic and the proportion of reduction of single-use plastic during each year following the date of fixing of target year 2022; and

(c) formulate and implement a National Plastic Control Policy for carrying out the purposes of this Act.

Promote  
sustainable  
alternatives  
to plastic.

**4.** The appropriate Government shall take necessary measures to promote sustainable alternatives to single-use plastic including,—

(a) research by higher education institutions and others into sustainable alternatives to plastic packaging; and

(b) the use of sustainable alternatives to plastic packaging.

Phasing out  
of existent  
plastic.

**5.** The appropriate Government shall take measures to ensure—

(a) elimination of the production and use of plastics;

(b) increase in recycling, reuse and other forms of waste recovery in relation to plastics; and

(c) removing plastics already in the environment for the purpose of recycling, reusing or applying another form of waste recovery to the plastics.

Ban on single-  
use plastic  
items.

**6.** Notwithstanding anything contained in any other law for the time being in force, no person shall, after the target year 2022, use, stock, distribute, manufacture, sell or trade in any single-use plastic item.

7. Whoever violates the provision of this Act shall be punished with a fine which shall not be less than rupees one lakh but which may extend upto rupees five lakhs. Penalty.

8. **The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.** Central Government to provide requisite funds.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

## STATEMENT OF OBJECTS AND REASONS

India generates close to 26000 tonnes of plastic a day. A little over 10000 tonnes of plastic waste remains uncollected and these uncollected waste eventually ends up in the natural environment in our seas and oceans or piling up on our lands. By 2050 the amount of plastic in seas and oceans across the world will weigh more than all the marginal creatures. At less than 11 kg. India's per capita plastic consumption is nearly a tenth of the United States, at 109 kg. Nearly one sixth of the plastic waste is generated by 60 cities and half of this comes from Delhi, Mumbai, Bengaluru, Chennai and Kolkata. The National Green Tribunal has also named 25 cities in U.P. for not following its orders on submitting a plan on how they would comply with the plastic waste management.

Plastic is highly non-biodegradable causing permanent damage to the environment by disrupting ecosystems. Single use plastic can block waterways and exacerbate natural disasters. By clogging sewers and providing breeding grounds for mosquitoes and pests, plastic bags can increase the transmission of vector-borne diseases like Malaria. Troubles with single-use plastic came to the fore during floods in various parts of the country this year. The Government is also campaigning against single-use plastic that has become one of the sources of pollution as addition to landfills is adversely impacting the already frail ecological balance. Heaps of plastic wastes were washed ashore highlighting the lack of awareness and infrastructure to effectively deal with the product.

Efforts to ban single-use plastic and promote sustainable alternatives to it can help in mitigating the ill-effects on human life and environment. India's commitment towards sustainable development can only be realised through concerted efforts to reduce pollution caused by plastic.

Hence, this Bill.

RONALD SAPA TLAU

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FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for research by higher education institutions and others into sustainable alternatives to plastic packaging. Clause 5 provides that the appropriate Government shall take measures to increase recycling, reuse and other forms of waste recovery in relation to plastics. Clause 8 of the Bill provides that the Central Government shall provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India and at this stage it is not possible to estimate that figure. No non-recurring expenditure is likely to be involved.

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MEMORANDUM REGRADING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

## XV

## BILL No. XLVI OF 2019

*A Bill to prevent insult to the Father of Nation and other icons of Freedom Movement or showing of respect to assassins of the Father of the Nation.*

BE it enacted by the Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and  
commence-  
ment.

**1.** (1) This Act may be called the Prevention of Insult to the Father of the Nation and other Icons of Freedom Movement Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires:—

(a) 'Father of the Nation' means Mohandas Karamchand Gandhi *alias* Mahatma Gandhi.

(b) 'insult' means exhibiting contempt or disrespect to the Father of the Nation and other icons of Freedom Movement by words, either spoken or written, or by acts and includes showing respect to the assassins of the Father of the Nation; and

(c) 'other icons of Freedom Movement' means persons who fought for freedom of the country and monuments related to freedom movement.

**3.** Whoever in any public place or in any other place within the public view insults the Father of the Nation or other icons of Freedom Movement, shall be punished with imprisonment for a term which may extend to seven years or with fine or with both.

Penalty on  
Insult to the  
Father of the  
Nation and  
other icons of  
Freedom  
movement.

**4.** Whoever, having already been convicted of an offence under section 3, is again convicted of any such offence, shall be punishable for the second and every subsequent offence, with imprisonment for a term which shall not be less than three years.

Enhanced  
penalty on  
second and  
subsequent  
convictions.

## STATEMENT OF OBJECTS AND REASONS

During the recent years, instances of insult to the Father of the Nation and other icons of Freedom Movement have increased. The existing laws have failed to check repeated insults to the Father of the Nation and other icons of Freedom Movement, miserably. In such scenario it is necessary to undertake measures to ensure respect owed to Freedom Struggle and its heroes, by providing and legislating harsh punishment to those who are trying to malign the image of the Father of the Nation and other icons of Freedom Movement.

Hence, this Bill.

JAVED ALI KHAN



## XVI

## BILL NO. LXII OF 2019

*A Bill to facilitate the development of a holistic national policy to ensure preservation of rights and provision of specialised care to senior citizens for their welfare and development to be undertaken by the State and for matters connected therewith and incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Elder Persons (Care and Protection) Act, 2019.  
(2) It extends to the whole of India.  
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,  
extent and  
commencement.

2. In this Act, unless the context otherwise requires;

Definitions.

(a) 'abuse' includes the infliction of physical, emotional and psychological harm; deprivation of essential goods and services, or neglect of basic needs for a respectable life;

(b) 'appropriate Government' means;

(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;

41 of 2006.

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government.

(c) 'barrier' means any factor including attitudinal, cultural, economic, institutional, political, religious, social or structural factors which hampers the full and effective participation, of an elder person in society;

(d) "caregiver" means a person or entity who has the responsibility to care for an elder person whether voluntarily or by any contract against receipt of payment or otherwise or by the formulation of any law of the appropriate Government and includes a family members or any person or entity employed with the full consent of the elder person, immediate family and/or the appropriate Government;

(e) "Constitution" means the Constitution of India;

(f) 'disability' means long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders an elder person's full and effective participation in society equally with others;

(g) 'discrimination' means any distinction, exclusion, restriction on the basis of ageing which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;

(h) "elder care", means all activities undertaken by the caregiver, fiduciary, appropriate Governments or any person or entity for the welfare of elder persons including but not limited to nutritional, emotional, psychological, physical and financial welfare;

(i) "exploitation", including financial exploitation, means the illegal, unauthorized and fraudulent use of the resources of an elder person by any person including but not limited to caregivers and fiduciaries for the person's benefit, whether monetary or otherwise and/or deprivation of the elder persons' right and agency to access the resources to avail of basic needs;

(j) "fiduciary" means a person or entity entrusted with the legal responsibility to make decisions on behalf of the elder person with the full consent of the elder person, immediate family or appropriate Government;

(k) "National Commission" means the National Commission for Elder Care constituted under section 13 of this Act;

(l) "elder person" means a person who is sixty years of age or above;

(m) "State Commission" means the State Commission for Elder Care constituted under section 22 of this Act.

Guiding  
Principles.

3. The appropriate Government shall, subject to the provisions of this Act and any other law for the time being in force, take necessary steps to secure for elder persons—

(a) respect for the inherent right to life, dignity, and individual autonomy;

(b) life free from abuse, neglect, and exploitation for elder persons;

(c) freedom from discrimination in all aspects of life, including, but not limited to, employment, access to education, accommodations, and other facilities;

- (d) right to participate in education and training programs as well as social, economic, cultural, and political life;
- (e) right to work; and
- (f) right to just compensation and employment conditions suitable to their needs.

## CHAPTER II

### PROTECTION OF RIGHTS

4. The appropriate Government shall,—

Rights of the  
Elder persons.

- (i) ensure protection of the right to equality and non-discrimination for elder persons as per Article 15 of the Constitution;
- (ii) take necessary steps for elder persons to enjoy the right to life with dignity enshrined under Article 21 of the Constitution; and
- (iii) take steps to enable the basic welfare of elder persons including but not limited to their right to be respected;

5. (1) The appropriate Government shall take all necessary measures to protect elder persons from abuse or exploitation at the hands of caregivers, family members, fiduciaries or any other person or entity;

Protection  
against abuse  
or  
exploitation.

(2) Any officer of the appropriate Government who receives a complaint from a person or entity or finds out about any instance of elder abuse or exploitation shall be responsible for:

- (i) identification and transfer of the case to authorities responsible for handling it;
- (ii) the authority in sub-clause (i) sub-section (2) shall be responsible towards the elder person and/or their fiduciary for:
  - (a) informing them about their rights to protection and liberty,
  - (b) introducing them to any organisation, whether private or any appropriate Government organisation, working towards protection and/or rehabilitation of elder persons,
  - (c) acquainting them with the relevant juridical authorities with the appropriate mandate to hear their case,
  - (d) provision them opportunities to access legal services without barriers,
  - (e) assisting them in filing a complaint as per provisions in the Indian legal system.

Provided that none of the responsibilities in clause (ii) of sub-section (2) shall exempt the authority of their obligation to proceed with law upon recognition of a cognizable offence;

## CHAPTER III

### SOCIAL SECURITY, ECONOMIC SELF SUFFICIENCY, HOUSING AND AWARENESS

6. (1) The appropriate Government shall formulate and implement policy measures to ensure the enforcement of the objectives of this Act as described in section 3;

Social Security  
and  
Awareness.

(2) The appropriate Government shall take necessary steps to ensure that elder persons have an adequate standard of living and to that effect, shall take steps to,—

- (i) identify, produce, procure and provide medicines and healthcare facilities specially required by elder persons,
- (ii) ensure barrier free access for elder persons, wherever possible, to healthcare services,

(iii) provide basic amenities to elder persons who do not have access to the same; and

(iv) identify, rescue and rehabilitate elder persons who have been abandoned by their fiduciaries or are facing abuse or exploitation,

Economic  
Self-  
sufficiency.

**7. (1)** The appropriate Government shall facilitate economic self-sufficiency among elder persons and ensure their financial inclusion within society;

(2) In accordance with sub-section (1), the appropriate Government shall—

(i) assist elder persons, especially those without any family or caregiver, to utilise banking facilities,

(ii) simplify the provision of information and access to health and insurance schemes to elder persons,

(iii) help elder persons to avail interest free loans for healthcare services,

(iv) inform elder persons about investment opportunities and asset management,

(v) monitor income from pensions and advice measures to increase it wherever necessary, in order to match the rising prices of goods and services,

(vi) create an environment for elder persons to participate in remunerative economic activity and provide adequate funds for the same including incentivising employers to hire elder persons with experience in specialised fields;

Housing for  
the elder  
persons.

**8.(1)** The appropriate Government shall take measures to provide residential facilities to elder persons who are abandoned or deprived of the same;

(2) The housing facilities shall be modelled after elder-friendly construction guidelines which may be prescribe with emphasis on developing elder communities for elder persons to live and participate in;

Public  
Awareness.

**9. (1)** The appropriate Government shall be responsible for designing programmers to spread awareness in the community about the hurdles faced by elder persons;

(2) The awareness campaign shall include but not the limited to easily interpretable information on diseases prevalent in elder persons, sensitisation of the younger generation towards the needs of the elderly, rights of folder persons including the right to respect and life with dignity, economic opportunities for elder persons in society and promotion of the value of elder persons in social activities;

(3) The appropriate Government shall also establish and operate a National helpline for provision of information or emergency assistance to elder persons and generate awareness about the same,

(4) In accordance with sub-section (3), local emergency help centres shall be constituted to address the calls of elder persons and provide immediate assistance as and when required according to rules laid down by the State Commission.

#### CHAPTER IV

##### ELDER PERSONS FUND

Elder Persons  
Fund.

**10. (1)** The appropriate Government of each district shall establish and maintain a Elder Persons Fund with financial assistance from the Central and State Government and voluntary contributions from citizens;

(2) The Elder Persons Fund shall be utilised for financing district level awareness programmes, organising community events for elder persons to participate in, provide loans to elder persons to engage in remunerative economic activity, providing financial assistance to avail of medical emergencies, assisting elder persons who cannot afford basic goods and services or for any other purpose deemed to be necessary by the appropriate Government in accordance with the objective of this Act.

## CHAPTER V

## EDUCATION

**11.** (1) The appropriate Government shall take all necessary steps to provide for education and reskilling opportunities for elder persons; Education.

(2) The Central or the State funded universities shall provide accessible opportunities for elder persons to pursue and complete education in any of the courses offered at the institution;

(3) The appropriate Government shall identify core skills to increase employability and design reskilling programmes to increase employment among elder persons; and

(4) There shall be adequate safeguards against discrimination in the hiring process of elder persons once trained in the skilling programme.

## CHAPTER VI

## RIGHTS OF CAREGIVERS

**12.** (1) The appropriate Government shall ensure that the rights of caregivers are preserved in the process of providing care to elder persons; Rights of caregivers.

(2) The National helpline and local help centre services in sub-sections (3) and (4) of section 9 shall be extended to caregivers to report instances of abuse or exploitation from the elder person, their friends and family or any fiduciary of the same;

(3) There shall be specially trained staff at each local emergency help centre to sensitively handle the complaints of minor caregivers;

(4) The salaries for the staff and rules for appointment of staff under the sub-section (3) shall be decided by the appropriate Government.

## CHAPTER VII

## NATIONAL AND STATE COMMISSIONS

**13.** (1) The Central Government shall, by notification, constitute a body to be called the National Commission for Elder Care to exercise the powers conferred upon and to perform the functions assigned to it, under this Act; National Commission for Elder Care and Selection Committee.

(2) The National Commission shall consist of the following members, namely,—

(a) a Chairperson, who is an eminent person with reputable service in the field of elder person caregiving and welfare;

(b) a Vice-Chairperson, who is distinguished individual with recognised service in the field of medicine and healthcare and shall be the interim Chairperson in the event of vacancy or incapacity of the Chairperson of the National Commission until such time that a new Chairperson is appointed to the position;

(c) five representatives from the following categories:

(i) Senior Citizen's Association;

(ii) Pensioner's Association;

(iii) Non-Government Organisation working for elder persons;

(iv) Elder person from the transgender community;

(v) Elder person from the community of persons with disability.

(3) Fifty percent of the nominees under sub-clauses (b) to (c) of sub-section (2) of shall be female;

(4) The Chairperson and Members of the National Commission shall be appointed by the President after obtaining the recommendations of a Selection Committee consisting of—

(a) the Prime Minister—Chairperson;

(b) the Speaker of the House of the People—Member;

(c) the Leader of Opposition in the House of the People—Member;

(d) the Chairman of the Council of States—Member.

(e) the Leader of the Opposition in The Council of States—Member, and

(f) the Chief Justice of India, or any other Justice of Supreme Court nominated by the Chief Justice on his behalf.

(5) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

(6) The Selection Committee shall for the purposes of selecting the Chairperson and Members of the National Commission and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least seven persons of standing and having special knowledge and expertise in the matters relating to elder care, disability rights, healthcare, policy making, psychology, law and management or in any other matter which, in the opinion of the Selection Committee may be useful in making the selection of the Chairperson and Members of the National Commission:

Provided that not less than fifty per cent. of the members of the Search Committee shall be from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities and women.

(7) The selection Committee shall regulate its own procedure in a transparent manner for selecting the Chairperson and Members of the National Commission.

(8) The term of the Search Committee referred to in sub-section (6), the fees and allowances payable to its members and the manner of selection of panel of names shall be such as may be prescribed.

Term of  
office.

**14. (1)** The members of the National Commission shall hold office for a term of four years from the date on which they enter upon their office;

(2) The members shall be eligible for a one-year extension to their term subject to recommendations of the Selection Committee.

Resignation  
and Removal.

**15. (1)** Any Member of the National Commission may, by notice in writing addressed to the President, resign their office.

(2) Subject to the provisions of sub-section (1) of section 15, any Member of the National Commission shall only be removed from their office by order of the President on the grounds of proven misbehaviour or incapacity after thorough inquiry following due procedure;

(3) Notwithstanding anything in sub-section (2) of section 15, the President may, by order, remove from office any member as the case may be if the member:—

(a) is adjudged an insolvent; or

(b) engages in employment during their office tenure that adversely affects the National Commission and/or its functioning; or

(c) is convicted and sentenced to imprisonment for any offence;

Vacancy.

**16. (1)** In the event of any vacancy in the office of the Chairperson or Vice-Chairperson of the National Commission due to any reason, the President may, by notification, authorise any two members to take up their responsibilities until the appointment of new members to fill such vacancy;

(2) If the Chairperson and Vice-Chairperson are unable to discharge their functions', the President may, by notification, authorise any two members to discharge their functions until resumption of their duties;

**17.** The salaries and allowances payable to and other terms and conditions of service of the members shall be such as may be prescribed.

Salary and Allowances.

**18. (1)** The National Commission shall meet at such time and place as the Chairperson may think fit;

Meetings of the National Commission.

(2) Subject to the provisions of this Act and the rules made thereunder, the National Commission shall have the power to lay down regulations establishing its own procedure;

(3) All orders and decisions of the National Commission shall be authenticated by the Secretary or any other officer of the National Commission duly authorised by the Chairperson in this behalf;

**19. (1)** The Central Government shall make available to the National Commission an officer of the rank of an Additional Secretary to the Government of India who shall be the Secretary to the National Commission;

Secretary to the National Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the National Commission may appoint such other administrative and technical officers and staff, as it may consider necessary;

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) of section 19 shall be such as may be prescribed.

**20.** The National Commission shall perform all or any of the following functions, namely:—

Functions of National Commission.

(a) identify, *suo-moto*, or on a representation received, provisions of any laws, policies, programmes and procedures, which are inconsistent with this Act, and recommend necessary corrective steps;

(b) monitor developments in fields relating to elder persons including but not limited to medicine, healthcare and economic opportunities;

(c) undertake research and collect, maintain and furnish information and data pertaining to various aspects of the lives of elder persons including but not limited to information about effectiveness of insurance and pension schemes, cost of living across the country for elder persons, violations of rights of elder persons, etc.;

(d) inquire, *suo-moto* or on a complaint received from any person regarding any violation of rights of elder persons for which the Central Government is the appropriate Government and pursue the matter *via* due procedure;

(e) periodically review the provisions of this Act *vis-a-vis* international developments and make recommendations for updating them as and when necessary to accommodate said developments in the field;

(f) regularly liaison with stakeholders including individual and/or organisations working in the field of elder rights and elder care to understand the evolving nature of the field;

(g) monitor disbursement of funds for and implementation of the provisions of this Act including awareness campaigns and national and state helplines and other such programmes intended for the benefit of elder persons;

(h) recommend concerned authorities including Departments of the Central Government to undertake any such policy or programme that may be beneficial for elder persons as deemed by the Commission:

Provided that the authorities must respond within a period of two months from the date of receipt of the recommendation regarding acceptance of said recommendations or rejection with reasons as the case may be;



(i) monitor, make recommendations to and review the work of State Commissions as established by section 22 of this Act.

Annual  
Report.

**21. (1)** The National Commission shall submit an annual report to the Central Government and may submit special reports on any matter of urgent importance over and above the annual report;

(2) The Central Government shall cause the annual and special reports of the Commission to be laid before each House of Parliament, along with a memorandum of action taken or proposed to be taken on the recommendations of the National Commission, and the reasons for non-acceptance of the recommendations, if any.

State  
Commission  
for Elder  
Care.

**22. (1)** Every State Government may constitute a State Commission for Elder Care to exercise the powers conferred upon and to perform the functions assigned to a State Commission under this chapter.

(2) The State Commission shall consist of,—

(a) a Chairperson, who is an eminent figure with reputable service in the field of elder person caregiving and welfare;

(b) a Vice-Chairperson, who is a distinguished individual with recognised service in the field of medicine and healthcare and shall be the interim Chairperson in the event of vacancy or incapacity of the Chairperson of the State Commission until such time that a new Chairperson is appointed to the position;

(c) five representatives from the following categories:

i. Senior Citizen's Association;

ii. Pensioner's Association;

iii. Non-Governmental Organisation working for elder persons;

iv. elder person from the transgender community;

v. elder person from the community of persons with disability.

(3) Appointments to all positions shall be made by the appropriate Government on the recommendation of a Selection Committee as may be prescribed by the State legislature of each state within six months of the date of commencement of this act.

Term of  
office.

**23. (1)** The members of the State Commission shall hold office for a term of four years from the date on which they enter upon their office;

(2) The members shall be eligible for a one year extension to their term subject to recommendations of the selection Committee.

Resignation  
and removal.

**24. (1)** Any Member of the State Commission may, by notice in writing addressed to the Governor, resign their office.

(2) Subject to the provisions of sub-section (1) of section 24, any Member of the State Commission shall only be removed from their office by order of the Governor on the grounds of proven misbehaviour or incapacity after thorough inquiry following due procedure;

(3) Notwithstanding anything in sub-section (2) of section 24, the Governor may, by order, remove from office any member as the case may be if the member:—

(a) is adjusted an insolvent; or

(b) engages in employment during their office tenure that adversely affects the State Commission and/or its functioning; or

(c) is convicted and sentenced to imprisonment for any offence.



- 25.** (1) In the event of any vacancy in the office of the Chairperson or Vice-Chairperson due to any reason, the Governor may, by notification, authorise any two members to take up their responsibilities until the appointment of new members to fill such vacancy; Vacancy.
- (2) If the Chairperson and Vice-Chairperson of the State Commission are unable to discharge their functions', the Governor may, by notification, authorise any two members to discharge their functions until resumption of their duties.
- 26.** The salaries and allowances payable to and other terms and conditions of service of the members shall be such as may be prescribed. Salary and allowances.
- 27.** (1) The State Commission shall meet at such time and place as the Chairperson may think fit; Meetings of the State Commission.
- (2) Subject to the provisions of this Act and the rules made thereunder, the State Commission shall have the power to lay down regulations establishing its own procedure;
- (3) All orders and decisions of the State Commission shall be authenticated by the Secretary or any other officer of the State Commission duly authorised by the Chairperson in this behalf.
- 28.** (1) The State Government shall make available to the State Commission an officer of the rank of Secretary to the State Government of India who shall be the Secretary to the State Commission. Secretary to the Commission.
- (2) Subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative and technical officers and staff, as it may consider necessary;
- (3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) of section 28 shall be such as may be prescribed.
- 29.** (1) The State Commission shall perform the functions laid down in section 20— Functions of the State Commission.
- (i) in clause (h) of section 20;
- (ii) in references to Central Government shall be construed to refer to State Governments for the purpose of defining the functions of the State Commission;
- (2) the State Commission shall be responsible for operating state emergency helplines and establishing local help centres for elder persons as laid down by this Act;
- (3) The State Commission shall consult with and report to the National Commission *suo-motu* or on request of the National Commission on matters pertaining to the field of elder care.
- 30.** (1) The State Commission shall submit an annual report to the State Government and may submit special reports on any matter of urgent importance over and above the annual report; Annual Report.
- (2) The State Government shall cause the annual and special reports of the Commission to be laid before one or more houses of the State Legislative Assembly as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission, and the reasons for non-acceptance of the recommendations, if any.

## CHAPTER VIII

### OFFENCES AND PENALTIES

- 31.** (1) Whoever knowingly obstructs the implementation of the provisions laid down in this Act or aids and abets or incites such obstruction or restricts the scope of the provisions or performs any activity deemed to be an offence against elder persons under this Act or any other law shall be liable to be punished with imprisonment of not less than six months extendable upto two years or a fine of not less than rupees twenty thousand extendable upto rupees two lakh or with both; Offences and Penalties.

(2) Where any offence as described in sub-section (1) has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible to the establishment for the conduct of its business, as well as the establishment, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in sub-section (1) and (2) shall render any such person liable to any punishment as highlighted in sub-section (1) if they prove that the offence was committed without their knowledge or that all due diligence was exercised to prevent the commission of such offence.

## CHAPTER IX

### MISCELLANEOUS

Central Government to provide funds.

**32.** The Central Government shall, after due appropriation made by Parliament by law, provide adequate funds, for carrying out the purposes of this Act.

Act to supplement other laws.

**33.** The provisions of this Act or the rules made there under shall be in addition to and not in derogation of any other legislation, rules, orders or instructions made with respect to elder persons.

Immunity from prosecution.

**34.** No suit prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rule there made under.

Power to remove difficulties.

**35.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make provisions consistent with the Act for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of a year from the date of commencement of this Act;

(2) Every order made under this section shall be laid before both the Houses of Parliament when in session and in the first week of the session immediately preceding the date of the order when not in session.

Power to make rules.

**36.** (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act subject to its provisions after consultation with relevant stakeholders as identified by them;

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made before each House of Parliament, while it is in session and has been passed with or without modifications or rejected by both the Houses:

Provided that any rule made under this Act when the Parliament is not in Session shall be presented before both the Houses of Parliament in the first week of the immediate successive session with consent required from each House for the rule to be accepted with or without modifications or rejected due to lack of consent thereof;

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such legislature consists of one House, before that House.

## STATEMENT OF OBJECTS AND REASONS

There has been a significant shift in demographic patterns across the world in the 21st Century with people leading far longer lives than the previous generation. In India, the population share of persons aged over 60 has been increasing at an increasing rate over the last few years and is expected to do so in the coming decades as well. With the increased life expectancy, empirical studies show that the youthful demographic bulge, considered a demographic dividend, would transform into a gerontological bulge as the population of 60+ and 80+ people will increase by 326% and 700% respectively by the year 2050. Besides, the fast changing social matrix is increasingly impacting adversely the care, dignity and independence of the elders.

On the global front, the situation of older persons was highlighted for the first time at the World Assembly on Ageing in 1982 in Vienna wherein International Plan of Action on Ageing was adopted. It served as an International blueprint for development of policies and programmes on ageing. Later, the United Nations Principles for Older persons were adopted by General Assembly Resolution 46-91 of 16th December, 1991. With the adoption of the Madrid International Plan of Action on Ageing in 2002 during the second world assembly on ageing, consistent efforts are being made to build a society for all ages.

The well being of older persons was enshrined in Indian Constitution much before it was raised in the international forum. Article 41 of the Indian Constitution enjoins that "the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of underserved want."

However, the focus on caring for the elderly has been inadequate with little attention given to creating environments for the development of elderly people. With their children migrating to metropolitan cities seeking jobs, parents are often left without company and support in their old age. India lacks dedicated government departments dealing with the various facets of ageing including providing accessible healthcare services, redressal systems and financial opportunities. Furthermore, old age is seen as a burden in many households with senior members being cast out of their homes or left in institutions for the elderly away from their family.

This bill seeks to rewrite the narrative surrounding ageing in Indian society by proposing the development of a positive outlook on ageing. It facilitates protection and preservation of rights of elderly citizens of the country and provides for the sensitization of the population at large about the challenges faced by the elders in our community. Economic opportunities for older persons are also stressed upon as financial security is crucial in old age with increasing costs of medical expenditure. The formation of national and state level commissions for the elderly allows for streamlining provision of services, addressing complaints and improving the standard of living for elderly citizens. Rights of caregivers working for the elderly are also incorporated within the Bill. The superlative societal value of our senior citizens cannot be ignored as we take strides towards becoming a global superpower in the coming years.

Hence this Bill.

DEREK O'BRIEN

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FINANCIAL MEMORANDUM

Clause 9 of the Bill provides for setting up of a National Helpline for the Elderly and local emergency help centres from providing assistance to elderly. Clause 10 provides for setting up of a Senior Persons Fund. Clause 12 provides for salary for staff appointed for local emergency help centres. Clause 13 provides for setting up of a National Commission for Elder Care. Clause 17 provides for salaries, allowance to be paid to the members of National Commission of Elder Care. Clause 19 provides for salaries, allowance, and for administrative and technical staff of the National Commission for Elder Care. Clause 32 makes it obligatory for the Central Government to provide requisite funds to carry out the provisions of the Bill.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible at present to quantify the funds that may be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 empowers State Commission for elder care to frame rules regarding setting up of local help centers. Clause 12 gives rule making power regarding appointment of staff for local emergency center to appropriate Government. Clause 17 provides for rules regarding salaries, allowance, and terms and conditions of service for members of National Commission for Elder Care. Clause 18 gives the National Commission the power to lay down regulations regarding its own functioning. Clause 19 provides for rule making power regarding salaries, allowance, and terms and conditions or service for administrative and technical staff of the National Commission for Elder Care. Clause 22 empowers State Governments to lay down rules for appointment of a selection committee. Clause 26 Provides for rules regarding salaries, allowance, and terms and conditions of service for members of State Commissions for Elder Care. Clause 27 gives the State Commissions the power to lay down regulations to regarding its own functioning. Clause 28 provides for rule making power regarding salaries, allowance, and terms and conditions of service for administrative and technical staff of the State Commissions for Elder Care. Clause 36 empowers the appropriate Government to frame rules by notification in the Official Gazette. to carry out the provision of the Bill.

The rules to be framed by the Government pertain to matters of administrative detail only, which cannot be laid down in the Bill itself. The delegation is, therefore, normal in character.

## XVII

## BILL NO. LVII OF 2019

*A Bill to provide for the establishment of a National Commission for Senior Citizens to improve the conditions of Senior Citizens and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the National Commission for Senior Citizens Act, 2019.

Short title,  
extent and  
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2.** In this Act, unless the context otherwise requires,—

Definitions

(a) "Appropriate Government" means in the case of a State, the Government of the State and in all other cases, the Central Government;

(b) "Commission" means the National Commission for Senior Citizens established under section 3;

(c) "Member" means a Member of the Commission;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "senior citizens" means any individual being a citizen of India, who has attained the age of sixty years or above.

Establishment  
of a National  
Commission  
for Senior  
Citizens.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a Commission to be known as the National Commission for Senior Citizens to exercise the powers conferred on and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of—

(a) a Chairperson;

(b) a Deputy Chairperson; and

(c) three members, with at least one member being a women and one member belonging to the Scheduled Castes or Scheduled Tribes, to be appointed by the Central Government from amongst the persons of ability, integrity and standing who has at least fifteen years of professional work experience committed to the cause of senior citizens rights, law and rehabilitation.

(3) The Central Government may appoint such number of officers and staff including experts to the Commission as may be required for its efficient functioning.

(4) The salary and allowances payable to, other terms and conditions of service of the Chairperson, Deputy Chairperson, members, officers, staff and experts of the Commission shall be such as may be prescribed.

(5) The Commission shall have the power to regulate its own procedure.

Duty of the  
Commission.

4. (1) It shall be the duty of the National Commission to take such steps, as it may deem appropriate, for the welfare of the development of Senior Citizens.

(2) Without prejudice to the generality of the foregoing provision, the Commission shall ensure the following provisions for the benefit and welfare of senior citizen namely to:—

Specified by President

(a) negotiate all cases related to the safeguards provided to senior citizens and carry out the monitoring and improvement of such safeguards;

(b) investigate complaints of the senior citizens related to deprivation of their rights and safeguards;

(c) participate in the planning process of socio-economic development of senior citizens;

(d) advice the appropriate Government to enhance pace of development of senior citizens under its jurisdiction;

(e) undertake non-partisan research or call for special studies and investigation into reasons for and problems arising out of, exclusion of senior citizens from social security schemes;

(f) submit reports to the Central Government regarding the workig of safeguards for senior citizens on an annual basis or at such intervals as it think fit including measures for protention, welfare and social development of senior citizens; and

(g) undertake all other functions for the protection, welfare and development of senior citizens, as may be presented.

Laying of  
reports.

5. (1) The Central Government shall cause to be laid before each House of Parliament all reports submitted to it under clause (f) of sub-section (2) of section 4 along with a memorandum explaining the reasons for not accepting any of the recommendations made thereto.

(2) Where the report, or any of its part is related to any of the issue connected with the Sate Government a copy of such report shall be forwarded to the Governor of that State,

who shall, along with an explanatory memorandum explaining action taken or proposed to be taken on the recommendations related to the State, if any and reasons for not accepting any of the recommendations, cause to be laid such report before the State Legislature.

6. The Commission shall, while investigating any matter referred to in clause (b) of sub-section (2) of section, 4, have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

Commission to have the power to a civil court.

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing summons for the examination of witnesses and documents; and

(f) any other matter as may be prescribed.

7. The appropriate Government shall consult the Commission on all policies affecting interests of the senior citizens.

Consultation with the Commission.

8. **The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the Commission for carrying out the purposes of this Act.**

Central Government to provides funds.

9. (1) **The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.**

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

## STATEMENT OF OBJECT AND REASONS

The life expectancy at birth in India has been witnessing a general rise over the past few decades. With the present life expectancy being 66.4 years for male and 69.6 years for females and if the trend continues it is supposed to reach above 70 years for both males and females soon. With changing pattern of family settings, increasing privatization of healthcare and changing patterns of morbidity, providing social security to the elderly needs to become a State priority.

Article 41 of the Constitution also mandates for the well-being of senior citizens. It *inter alia* states that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to public assistance in cases of old age. International efforts are being continuously made to increase commitments towards the senior citizens.

The National Policy on Senior Citizens 2011 tries to address the growing challenges of the elderly population of India and calls for the establishment of National Commission for Senior Citizens at the Centre and State Commissions at the State level under an Act of Parliament. This Bill aims to achieve the above mentioned objectives.

KUMARI SELJA



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FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of the National Commission for Senior Citizens. Clause 4 of the Bill requires the Commission to carry out certain activities to promote the welfare and ensure the well being of senior citizens of the country. Clause 8 provides for adequate funding of the Commission by the Central Government.

Thus, the Bill, if enacted will involve expenditure from the Consolidated Fund of India of an annual recurring expenditure of the estimated amount of rupees fifty crore and a non-recurring expenditure of about rupees ten crore.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## XVIII

## BILL No. XLIX OF 2019

*A Bill further to amend the Right of Persons with Disabilities Act, 2016.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title  
and  
commencement.

**1.** (1) This Act may be called the right of Persons with Disabilities (Amendment) Act 2019.

(2) It shall come into force on such date as the Central Government may, by Notification in the Official Gazette, appoint.

Establishment  
of National  
Commission  
for Persons  
with  
Disabilities

**2.** In the right of Persons with Disabilities Act, 2016 (hereinafter referred to as the Principal Act), For section 74 the following section shall be substituted, namely,—

(1) The Central Government shall constitute a body to be known as the National Commission for Persons with Disabilities, to exercise the powers conferred on, and to perform the functions assigned to, under the Act.

(2) The Commission shall consist of the following Members nominated by the Central Government,—

(a) a Chairperson, who is or has been a Judge of the Supreme Court or High Court and is a person with Benchmark Disability;

(b) two Commissioners, who have special knowledge and expertise in matters relating to rehabilitation as Members; and

(c) a Member-Secretary, who is or has been an officer not below the rank of Joint Secretary or Additional Secretary to the Government of India;

(3) The Chairperson or the shall be assisted by an Advisory Committee comprising of not more than eleven members drawn from the experts from different disabilities in such a manner as may be prescribed by the Central Government.

(4) The Chairperson and the Members shall hold office as such for a term of three years from the date of assumption of office.

Provided that no Chairperson or Member shall hold office for more than two terms;

(5) The salary and allowances payable to and other terms and conditions of the service including pension, gratuity, and other retirement benefits of the Chairperson and Members shall be such as may be prescribed by the Central Government.

3. In the Principal Act, for section 79, the following section shall be substituted namely:

(1) The State Government shall constitute a body to be known as the State Commission for Persons with Disabilities to exercise the powers conferred on, and to perform the function assigned to, under the Act.

Establishment  
of State  
Commission  
for persons  
with  
Disabilities.

(2) The Commission shall consist of the following persons nominated by the State Government:—

(a) a Chairperson who is or has been a Judge of the Supreme Court or High Court and is a person with Benchmark disability;

(b) two Commissioners, who have special knowledge and expertise in matters relating to rehabilitation as Members, and

(c) an officer not below the rank of the Secretary to the State Government as the Member Secretary.

(3) The Chairperson or the Chief Commissioner shall be assisted by an Advisory Committee comprising of not more than five members drawn from the experts from different disabilities in such a manner as may be prescribed by the State Government.

(4) The Chairperson or the Chief Commissioner and the Members shall hold office as such for a term of three years from the date of assumption of office and shall be eligible for re-appointment:

Provided that no Chairperson or Chief Commissioner or a Member shall hold office for more than two terms.

(5) The salary and allowances payable to and other terms and conditions of the service including pension, gratuity, and other retirement benefits of the Chairman or the Chief Commissioner and Members shall be such as may be prescribed by the State Government.

## STATEMENT OF OBJECTS AND REASONS

In India, as per Census 2011, out of the 121 crore population, about 2.68 crore persons, which is 2.21 percent of the total population, are recognized as "Persons with Disabilities. In the Rights of Persons with Disabilities Act, 2016, many special provisions have been made to promote the rights of Persons with Disabilities, under which the Chief Commissioner or the State Chief Commissioner plays a crucial role in implementing these provisions. For ensuring effective implementation of the provisions under this Act, a strong institutional mechanism is required. This Bill seeks to amend the provisions under sections 74 and 79 of the Act to establish the National Commission for persons with Disabilities and the State Commission for Persons with Disabilities respectively. The Bill aims to facilitate in meeting our international obligation to the United Nation's Convention on the Rights of Persons with Disability and its national obligation to all the fellow citizens.

Hence, this Bill.

KUMARI SELJA

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FINANCIAL MEMORANDUM

Clauses 2 and 3 of the Bill *inter alia* provide for salary and allowances payable to the Commissioners and Members of the National Commission for Persons with Disabilities and the State Commission for Persons with Disabilities respectively. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However it is not possible, at present, to quantify the funds that may be involved at this stage.

The expenditure for State Commission for persons with disabilities would be borne by the State Govt.

## XIX

## BILL NO. XLVII OF 2019

*A Bill further to amend the Representation of the People Act, 1951.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called the Representation of the People (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of  
new section  
75B.

**2.** In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act) after section 75A, the following section shall be inserted, namely:— 43 of 1951.

Declaration  
of travel  
documents  
and foreign  
travels.

“75B. (1) Every elected candidate for a House of Parliament, within ninety days from the date on which he makes and subscribes an oath or affirmation, according to the form set out for the purpose in the Third schedule to the Constitution, for taking his seat in either House of Parliament, furnish the information, relating to—

(i) the details of the valid travel document held by him;

(ii) the names of the countries visited by him in the previous year, along with nature of the visit, duration, expenses incurred, source of expenditure etc.;

(iii) any hospitality or monetary help received by him from foreign government, foreign agency or organisation, foreign national etc.

to the Chairman of the Council of States or the Speaker of the House of the People, as the case may be.

(2) The information under sub-section (1) shall be furnished every year during the tenure of an elected candidate for a House of Parliament in such form and in such a manner as may be prescribed in the rules made under sub-section (3).

(3) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may make rules for the purposes of sub-section (2).

(4) The rules made by the Chairman of the Council of the States or the Speaker of the House of the People under sub-section (3) shall be laid as soon as may be after they are made, before the Council of States or the House of the People, the case may be, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the Council of States or the House of the People and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall of no effect.

(5) The Chairman of the Council of States or the Speaker of the House of the People, as the case may be, may direct that any willful contravention of the rules made under sub-section (1) by an elected candidate for House of Parliament referred to in sub-section (1) may be dealt with in the same manner as a breach of privilege of the Council of States or the House of the People, as the case may be.”

*Explanation.*—For the purposes of this section,—

(i) "travel document" means the Passport or any other document required to visit a foreign country;

(ii) "nature of the visit" means any business, academic, educational, leisure purposes etc.;

(iii) "foreign government" means any department or government agency controlled by a foreign country or a group of countries;

(iv) "foreign agency or organisation" means any organization, entity, corporate or otherwise with its headquarters outside India, and receiving funds from a foreign government or governments.

## STATEMENT OF OBJECTS AND REASONS

Members of Parliament are important public functionaries and transparency about their functioning, sources of their income and expenses is necessary to demonstrate their financial integrity. From time to time, the Parliament has enacted legislation and framed rules to ensure that those elected to Parliament uphold this cherished ideal. Under Section 75A of the Representation of People Act, 1951, all elected Members of Parliament are required to make a detailed declaration of assets and liabilities of the member concerned, his/her spouse and dependent children.

It is also important for the Members of Parliament to inform the Chairman of the Council of States and the Speaker of the House of People, as the case may be, about their foreign visits of private, non-governmental purposes. As public representatives, the Members of Parliament must make complete disclosures about foreign travels including purpose of and expenses incurred on such visits. Foreign hospitality received in any manner from foreign governments or institutions must also be disclosed to the Chairman of the Rajya Sabha or the Speaker of the House of the People, as the case may be, besides seeking prior permission from the Central government as per section 9 of the Foreign Contribution (Regulation) Act, 1976.

The Members are advised by the secretariat of both Houses of Parliament to send information of their visits abroad, stating the purpose and the itineraries, to the respective Secretary-General at least 3 weeks in advance so that the Ministry of External Affairs and the concerned Indian Mission/Post can be informed of the same. Members travelling abroad in their personal capacity are also advised to furnish some information on such foreign travels to never in the absence of a statutory requirement, this advisory has not been adhered to by most Members of Parliament.

Therefore, the Bill seeks to amend the Representation of the People Act, 1951 to make it mandatory for Members of Parliament to disclose the details of their travel documents in their possession and the foreign travels undertaken by them along with details like countries and places visited, duration of travel, expenses incurred, sources of funding, foreign hospitality received, if any etc.

Hence, this Bill.

G.V.L. NARASIMHARAO



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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill *inter alia* empowers the Chairman of the Council of States or Speaker of the House of People to make rules to carry out the provision of the Bill. The rules so framed would pertain to matters of administrative detail only, which cannot be laid down in the Bill itself. The delegation is, therefore, normal in character.

## XX

## BILL NO. XLV OF 2019

*A Bill further to amend the Indian Penal Code, 1860*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title.

**1.** This Act may be called the Indian Penal Code (Amendment) Act, 2019.

Insertion of  
new sections  
379A and  
379B.

**2.** In the Indian Penal Code, 1860, after section 379, the following sections shall be inserted, namely:—

Snatching.

"379A.—(1) Whoever, with the intention to commit theft, suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his possession any moveable property, and makes or attempts to make escape with such property, is said to commit snatching.

(2) Whoever, commits snatching, shall be punished with rigorous imprisonment for a term, which shall not be less than five years but which may extend to ten years, and shall also be liable to fine of rupees twenty five thousand.

379B. Whoever, in order to commit snatching, or in committing the snatching, causes hurt or wrongful restraint or fear of hurt; or after committing the offence of snatching, causes hurt or wrongful restraint or fear of hurt in order to effect his escape, shall be punished with rigorous imprisonment which shall not be less than ten years but which may extend to fourteen years, and shall also be liable to fine of rupees twenty five thousand".

Snatching with  
hurt, wrongful  
restraint or  
fear of hurt.

## STATEMENT OF OBJECTS AND REASONS

Statistics show that there has been a multi-fold increase in the cases of snatching in the country. Every incident of snatching poses a threat to the law and order situation in the area and also affects the freedom of movement of people after a certain time in the evening. Some parts of the country have become notorious for their snatching incidents. This is emblematic to a larger crisis and has kept the police on edge.

Snatching is one of the worst forms of street crimes and measures must be taken to control their occurrence. The present law is unclear and does not apply uniformly throughout the country. Therefore, there is a need to have a single law with stringent punishment for the snatchers. The snatchers are mostly repeat offenders who have benefitted from the ill equipped legal system of the country.

This Bill draws inspiration from Haryana which saw a drop in the cases of snatching after they introduced a specific section in IPC for snatching with increased punishment. In the end, we all desire and aim for a safe environment for the men and women of our country with the freedom to roam on the streets without fear.

Hence, this Bill.

V. VIJAYASAI REDDY

## XXI

## BILL No. LX OF 2019

*A Bill further to amend the Advocates Act, 1961.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

**1.** (1) This Act may be called the Advocates (Amendment) Act, 2019.

Short title and  
Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

25 of 1961.

**2.** In section 2 of the Advocates Act, 1961, (hereinafter referred to as the principal Act) in sub-section (1):—

Amendment  
of section 2.

(i) for clause (a) the following clause, shall be substituted, namely:—

"(a) "advocate" means an advocate entered in any roll under the provisions of this Act and includes an advocate carrying on practice in law with

a law firm, by whatever name called, and a foreign lawyer registered under any law in a country outside India and recognised by the Bar Council of India in such manner as may be prescribed—

(aa) "practicing advocate" means an advocate with twelve or more recorded hearings and name in five or more *vakalatnamas* in a year;

(ab) "young practicing advocate" means an advocate under the age of thirty years who is practicing for a period of less than three years from the date of registration;"

(ii) after clause (n), the following clause shall be inserted, namely:—

(o) "Advocates' Social Security Fund" means the fund maintained by the Central Government under section 44C to be specifically used for the purposes mentioned in Section 44A."

Insertion of  
new Sections  
44A, 44B,  
44C, 44D and  
44E.

3. After section 44 of the principle Act, the following new sections shall be inserted, namely:—

#### "CHAPTER - VA

##### SOCIAL SECURITY BENEFITS

Welfare  
Schemes.

**44A.** (1) The Central Government shall, in consultation with the Bar Council of India, formulate and notify, from time to time, suitable welfare schemes for practicing lawyers on matters relating to—

- (a) life and disability cover;
- (b) health and maternity benefits;
- (c) stipend for young practicing lawyers;
- (d) group health insurance cover;
- (e) compensation in case of death; and
- (f) any other benefits as may be determined by the Central Government.

(2) The State Government may, in consultation with the State Bar Council formulate and notify, from time to time, suitable welfare schemes for practicing advocates, including schemes relating to—

- (a) housing; and
- (b) capacity building of practicing lawyers.

Fund of  
Schemes.

**44B.** (1) The scheme notified by the Central Government in consultation with the Bar Council of India may be—

- (i) wholly funded by the Central Government; or
- (ii) partly funded by the Central Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the Central Government:

Provided that the contribution from the beneficiaries under clause (ii) shall not exceed 30 per cent of the total cost of the scheme; or

(iii) partly funded by the Central Government and partly funded through the Advocates' Social Security Fund:

Provided that any expenditure made from the Advocates' Social Security Fund towards any scheme shall be made only after due consultation with the Bar Council of India.

(2) Every scheme notified by the Central Government in consultation with the Bar Council of India shall provide for all matters that are necessary for the efficient implementation of the scheme including but not limited to,—

- (i) scope of the scheme;
- (ii) beneficiaries of the scheme;
- (iii) resources of the scheme; and
- (iv) any other relevant matter."

**44C.** (1) The Central Government shall constitute a fund to be called the "Advocates' Social Security Fund" which shall be managed by the Central Government in consultation with the Bar Council of India.

Advocates  
Social  
Security Fund.

(2) There shall be credited to the fund, a compulsory contribution called the social security contribution from practicing advocates with income after tax exceeding rupees one crore, which shall be at least one per cent of the net income after tax or such higher percentage as may be prescribed by the Central Government from time to time.

(3) There shall also be credited to the Fund—

(a) any voluntary donation or contribution made to the Fund by the Bar Council of India, any State Bar Association, any State Advocates' Association or other association or institution, or any advocate or other person;

(b) any grants which may be made by the Central Government or a State Government to the Fund;

(c) all sums collected by way of sale of welfare stamps under section 46B.

**44D.** (1) The Central Government, may, in consultation of the Bar Council of India, by notification, make rules for carrying out of the provisions sections 44A, 44B and 44C.

Power to  
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and the manner in which the annual statement of accounts and annual report shall be prepared;

(b) the amount of social security contribution as a percentage of the net income after tax of advocates with income more than rupees one crore; and

(c) the value and design of welfare stamps to be printed and distributed under section 46B.

**44E.** (1) The State Government may, in consultation with the State Bar Council, by notification, make rules for carrying out the provisions of sub-section (2) of section 44A.

Power of  
State  
Government  
to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may, provide for all or any of the following matters, namely,—

(a) the form and the manner in which the annual statement of accounts and annual report shall be prepared;

(b) recognising and earmarking the land for group housing schemes for practicing advocates; and

(c) entering into Memorandum of Understanding with institutions and organisations for capacity building of practicing advocates.

**4.** After section 46A of the principle Act, the following section shall be inserted, namely:—

Insertion of  
new section  
46B.

**"46B.** (1) The Central Government shall cause the printing of welfare stamps to be affixed on every *Vakalatnama*, Power of Attorney, Agreements for litigation, Affidavits, documents relating to consultation and other similar instruments, called

Printing of  
Welfare  
Stamps.

by whatever name, but involving service of advocates (2) the sale proceeds of welfare stamps shall be credited to the Advocates Social Security fund.

(2) The instruments referred at sub-section (1) shall be treated as deficient unless they are affixed with the welfare stamps.

Amendment  
of Section 49.

**5.** In section 49 of the principal Act, in sub-section(1),—

(i) after the words "State Bar Council", wherever they occur, the words "and the Supreme Court Bar Association" shall be inserted.

(ii) after clause (i), the following clauses shall be inserted namely:—

"(ia) the manner in which the State Bar Council may exercise supervision and control over Bar Associations except the Supreme Court Bar Association, Association of law firms and foreign lawyers, situated within its territorial jurisdiction and the manner in which the directions issued or orders passed by the State Bar Council may be enforced;

(ib) to carry out welfare schemes and social security measures for practicing advocates as notified by the Central Government".



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STATEMENT OF OBJECTS AND REASONS

The first resolve which our Preamble to the Constitution makes is that of justice. It is not a mere coincidence that it is first in the order. All other resolves are part of or can be accomplished only if Justice is secured first. Justice is the bare minimum and the basis of the formation of our country as our freedom struggle based upon fight against injustice. Considering the importance of justice, all aspects related to it must be cared for and strengthened.

One of the most crucial components of the justice delivery system in India is its human resource element which is the Advocate. Their role cannot be overstated in the whole process. They act as a bridge between the aggrieved and the adjudication institution. They also play an important role in shaping our society, not to forget their role in assisting courts to arrive at several judgments protecting the environment.

Despite the importance attached to the profession, there are no concrete measures in place to ensure their social security. Other limbs in the administration of justice that is the judges and the Government employees are much ahead in this aspect. The Central Government till now did not have any specific responsibility towards the lawyers, and as most of the social security measures such as insurance and banking fell under list I of the seventh schedule, the need to fix specific responsibility arose.

Hence this Bill.

V. VIJAYASAI REDDY

## FINANCIAL MEMORANDUM

Clause 3 of the Bill intends to formulate and notify welfare schemes for the practising lawyers by inserting a new section 44A to Advocates Act, 1961. Similarly, the clause also proposes to constitute the Advocates' Social Security Fund to be managed by the Central Government by inserting a new section 44C to the Act. It has been provided that Central Government may provide grants for crediting to the fund. Therefore, the Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage as to the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## XXII

## BILL NO. XLVIII OF 2019

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2019. Short title.
2. After article 338B of the Constitution, the following article shall be inserted, Insertion of  
new article  
338C.  
namely:—  
  
"338C. (1) There shall be Commission for the Farmers to be known as the National  
Commission  
for Farmers.  
National Commission for Farmers.  
  
(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members who shall be farmers and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rules determine.

(3) The Central Government shall in consultation of the Chairperson determine the nature and categories of the officers and other employees required to assist the Commission in the discharge of its functions.

(4) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(5) The Commission shall have the power to regulate its own procedure.

(6) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the farmers under this Constitution or under any other law for the time being in force or under any order of the Government or any scheme implemented by the Government and to evaluate the working of such safeguards and schemes;

(b) to inquire into specific complaints with respect to the deprivation of the rights and benefits of the schemes of the government;

(c) to participate and advise on the socio-economic development of the farmers and to evaluate the progress of their development under the Union and any State;

(d) to present to the president, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards and schemes;

(e) to make in such reports the recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the farmers; and

(f) to discharge such other functions in relation to the protection, welfare, development and advancement of the farmers as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(7) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.

(8) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendations.

(9) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (6) have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents; and

(f) any other matter which the President may, by rule, determine.

(10) The Union and every State Government shall consult the Commission on all major policy matters affecting farmers.

## STATEMENT OF OBJECTS AND REASONS

Agriculture, with its allied sectors, is the largest source of livelihood in India. The Food and Agriculture Organisation (FAO) of United Nations tells us that 70 percent of India's rural households still depend primarily on agriculture for their livelihood, with 82 percent of farmers being small and marginal.

As the Indian economy has diversified and grown, agriculture's contribution to GDP has steadily declined from 1951 to 2011. While agriculture in India has achieved grain self-sufficiency but the production is, resource intensive, cereal centric and regionally biased. The resource intensive ways of Indian agriculture has raised serious sustainability issues too. Increasing stress on water resources of the country would definitely need realignment and rethinking of policies.

With this background, it, therefore, has become imperative to have a permanent commission for farmers on similar lines as that of the National Commission for the Schedule Castes and the National Commission for the Schedule Tribes. This Commission shall have the work of monitoring the existing safeguards, make recommendations as to the measures that should be taken by the Union or any State for their implementation, inquire into specific complaints of the farmers amongst others.

Hence, this Bill.

V. VIJAYASAI REDDY.

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FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the constitution of National Commission for Farmers with a Chairman, Vice-Chairman and three other members, and also provides for officers and other employees for the Commission. In respect to this clause of the Bill, an indicative recurring expenditure of about rupees thirty crore per annum is anticipated for the expenses of the National Commission for Farmers. Further, an indicative non-recurring expenditure of rupees ten crore is anticipated towards the creation of building and infrastructure facilities for the office of National Commission for Farmers assuming availability of Government land.

## XXIII

## BILL NO. LXVII OF 2019

*A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.*

BE it enacted by the Parliament in the Seventieth Year of the Republic of India as follows:—

Short title  
and  
commencement.

1. (1) This Act may be called The Right of Children to Free and Compulsory Education (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Amendment of  
Section 2.

2. In the Right of Children to free and compulsory Education Act, 2009, (hereinafter referred to as the principal Act), in section 2, after clause (g), the following shall be inserted, namely,

"(ga) "level of learning" means the appropriate class for a child, as may be assessed by the school to which the child above the age of six years is admitted through a standardised diagnostic test conducted by the school;"

35 of 2009.



3. In the principal Act, for section 4, the following shall be substituted, namely,—

Amendment  
of Section 4.

"4. Where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her level of learning:

Special  
provisions for  
children not  
admitted to or  
who have not  
completed  
elementary  
education.

Provided that regardless of the class to which a child is admitted, he or she shall have a right to receive special training, in such manner, and within such time-limits, as may be prescribed:

Provided further that a child so admitted to elementary education shall be entitled to free education till the completion of elementary education even after fourteen years of age:

Provided also that the appropriate Government may prescribe the rules relating to the conduct of standardised diagnostic tests by the school to determine the level of learning of the child."

## STATEMENT OF OBJECTS AND REASONS

It has been observed that children who fall behind in school do not benefit from being taught at a grade or class far above what their education levels allow them to understand and comprehend. Learning outcomes are therefore negatively impacted when such a child is unable to process teaching in his or her class, yet is promoted to a higher class. Such a child is left without recourse and is at risk of dropping out of school without completing elementary education.

2. The Right of Children to Free and Compulsory Education Act, 2009, presently obligates the school to admit to the age appropriate class for a child admitted above the age of six.

3. In order to teach children at the right level, importance must be placed on identifying the appropriate level at which they should enter school and begin the learning process. This cannot be determined purely on the basis of the age of the child. This Bill proposes to make the requisite amendments to the Act to achieve this goal and improve learning outcomes in elementary education which are presently unsatisfactory.

4. The Bill seeks to achieve the above objectives.

DR. AMAR PATNAIK

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill proposes to amend section 4 of the Act so as to enable the appropriate Government to prescribe rules for the conduct of a standardized diagnostic test to determine the level of learning which a child has achieved so that the appropriate class for admission of the child may be determine.

2. The matters in respect of which rules may be made under the proposed legislation are matters of procedure of administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## XXIV

## BILL NO. LXIII OF 2019

*A Bill further to amend the Deposit Insurance and Credit Guarantee Corporation Act, 1961.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

Short title and  
commencement.

**1.** (1) This Act may be called The Deposit Insurance and Credit Guarantee Corporation (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Amendment  
of Section 4.

**2.** In the Deposit Insurance and Credit Guarantee Corporation Act, 1961, (hereinafter referred to as principal Act), in section 4 for sub-section (1)] the following sub-section shall be substituted, namely:—

47 of 1961.

"(1) The authorised capital of the Corporation shall be determined by the Central Government, in consultation with the Reserve Bank, which may be increased from time to time."

3. In section 16 of the principal Act,—

Amendment  
of Section 16.

(a) In sub-section (1),

(i) for the second proviso the following shall be substituted, namely:—

"Provided that the total amount payable by the Corporation to any one depositor in respect of his or her deposit in that bank, in the same capacity, and in the same right shall extend to the entire amount of the deposit, including both principal and interest amount held by the depositor as on the date of liquidation or cancellation of the bank's license, or the date on which the scheme of amalgamation, merger or reconstruction comes into force."

(ii) the third proviso shall be omitted.

(b) In clause (b) of sub-section (4), for the words "one thousand and five hundred rupees, or as the case may be, the amount fixed by the Corporation under the third proviso", the words "amount fixed under the second proviso" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

The Deposit Insurance and Credit Guarantee Corporation (DICGC) was set up to insure bank deposits that are payable in India in the event of a bank failure.

Under the present Act, a depositor's hard earned money stored in a bank is only insured till the upper limit of Rs. 1,00,000 by the Corporation for the amount held by the depositor in the same capacity and same right as on the date of liquidation or cancellation of bank's license or the date on which the scheme of amalgamation, merger, or reconstruction comes into force. This amount has not been revised since 1993 by the Corporation.

This does not provide the depositor with adequate safeguards in case of a bank failure. Poor regulation and management of banks, and fraudulent lending practices therefore leave the depositors as the primary victims of bank's failure. They have little immediate recourse for the recovery of their hard earned money.

This Bill intends to increase the liability of the Corporation to the entire amount lost by the innocent depositor on account of the failure of a bank. Additionally, it aims to improve the financial accountability of India's banking regulatory infrastructure by indirectly increasing the responsibility and liability of the Reserve Bank of India, which is subscribed to the entire share capital of the Corporation.

The Bill seeks to achieve the above objective.

DR. AMAR PATNAIK

## XXV

## BILL NO. LII OF 2019

*A Bill further to amend the Right to Information Act, 2005*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called The Right to Information (Amendment) Act, 2019.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2 of 2005.

2. In the Right to Information Act, 2005 (hereinafter referred to as the principal Act), in section 13,—

Amendment  
of section 13.

(a) in sub-section (1) after first proviso, the following proviso shall be inserted, namely,—

"Provided further that the term of office of the Chief Information Commissioner shall not be less than the term of office of an Information Commissioner appointed under sub-section (3) of section 12."

(b) in sub-section (2), after second proviso, the following proviso shall be inserted, namely,—

"Provided also that the term of office of every Information Commissioner appointed under sub-section (3) of section 12 shall be identical."

(c) in sub-section (5), for the words "shall be as may be prescribed", the words "shall be may be uniformly prescribed" shall be substituted.

Amendment  
of section 16.

**3.** In section 16 of the principal Act,—

(a) in sub-section (1), after first proviso the following proviso shall be inserted, namely,—

"Provided further that the term of office for the State Chief Information Commissioner shall not be less than the term of office of a State Information Commissioner appointed under sub-section (3) of Section 15."

(b) in sub-section (2), after second proviso the following proviso shall be inserted, namely,—

"Provided also that the term of office of every State Information Commissioner appointed under sub-section (3) of section 15 shall be identical."

(c) in sub-section (5), for the words "shall be such as may be prescribed", the words "shall be such as may be uniformly prescribed" shall be substituted.



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**STATEMENT OF OBJECTS AND REASONS**

The recent Right to Information (Amendment) Act, 2019 passed in the 249th Session of the Rajya Sabha modified the terms and conditions of employment for the Information Commissioners at the Central and State Levels. The amended Act now allows for the Central Government to prescribe the term of office of the Information Commissioners at all levels, and to also determine their salaries, allowances, and other conditions of service.

However, there is a need to further clarify and strengthen the appointment process of all Information Commissioners by ensuring uniformity in the terms and conditions of appointments to the positions of the Central and State level Information Commissions under the Act.

This Bill seeks to achieve the above mentioned objective.

DR. AMAR PATNAIK.

## XXVI

## BILL NO. LXVI OF 2019

*A Bill to prevent trafficking of persons, especially women and children and to provide care, protection and rehabilitation to the victims of trafficking, to prosecute offenders and to create a legal, economic and social environment for the victims and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Trafficking of Persons (Prevention, Protection and Rehabilitation) Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification appoint; and different dates may be appointed for different States and any reference in any of the provisions to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

2. (I) In this Act, unless the context otherwise requires,—

(a) "Anti-Trafficking Police Officer" means a police officer referred to in section 9;

(b) "Anti-Trafficking Unit" means a unit set up in the Districts by the appropriate Government under section 10;

(c) "appropriate Government" means, in respect of matters relating to,—

(i) a Union territory without legislature, the Central Government;

(ii) the Union territories with legislature, the Government of the National Capital Territory of Delhi or, as the case may be, the Government of Union territory of Puducherry;

(iii) a State, the State Government;

(d) "Bureau" means the National Anti-Trafficking Bureau established by the Central Government under sub-section (1) of section 3;

(e) "child" means a person who has not completed the age of eighteen years;

2 of 2016

(f) "Child Welfare Committee" shall have the meaning assigned to it in section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015;

(g) "designated court" means a court designated under section 46;

(h) "District Anti-Trafficking Committee" means a committee constituted by the appropriate Government under section 13;

(i) "District Police Nodal Officer" means a police officer referred to in section 8;

(j) "Magistrate" means a District Magistrate or Additional District Magistrate or a Sub-Divisional Magistrate;

61 of 1985

(k) "narcotic drugs" and "psychotropic substances" shall have the meanings, respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985;

(l) "National Anti-Trafficking Relief and Rehabilitation Committee" means a committee established by the Central Government under sub-section (1) of section 11;

(m) "notification" means a notification published in the Official Gazette and the term notify shall be construed accordingly;

(n) "premises" means any building, conveyance, land, location, place, structure or any part thereof and includes any source, transit or destination of trafficking;

(o) "prescribed" means prescribed by rules made by the appropriate Government under this Act;

(p) "Protection Home" means the Protection Home referred to in sub-section (1) of section 21;

(q) "rehabilitation" means all measures and processes of physical, psychological and social well-being of a person who is trafficked and includes access to education, skill development, health care including psychological and physiological support, medical services, economic empowerment, legal aid and assistance, safe and secure accommodation;

(r) "Rehabilitation Fund" means the fund established under sub-section (1) of section 30;

(s) "Rehabilitation Home" means the Rehabilitation Home, referred to in sub-section (1) of section 22;

(t) "State Nodal Officer" means an officer appointed by the State Government under sub-section (1) of section 6;

(u) "State Anti-Trafficking Committee" means a Committee established by the appropriate Government under sub-section (1) of section 12;

(v) "State Police Nodal Officer" means a police officer appointed by the State Government under sub-section (1) of section 7;

(w) "trafficking of person" shall have the meaning assigned to it in sub-section (1) of section 370 of the Indian Penal Code; 45 of 1860.

(x) "victim" means any person on whom an offence of trafficking has been committed or attempted by any other person or persons:

Provided that for the purpose of receiving compensation or relief under this Act, any dependent or legal heir, as the case may be, of a deceased victim, shall also be construed as a victim.

(2) The words and expressions used but not defined in this Act but defined in the Indian Penal Code, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015 shall have the meanings respectively assigned to them in those Acts. 45 of 1860.  
2 of 1974.  
21 of 2000.  
2 of 2016.

## CHAPTER II

### NATIONAL ANTI-TRAFFICKING BUREAU

National Anti-Trafficking Bureau.

3. (1) The Central Government shall, by notification, establish a Bureau to be called the National Anti-Trafficking Bureau for exercising the powers and discharging its functions under this Act.

(2) The Bureau shall have police officers and other officers of such appropriate ranks, as may be necessary, for the discharge of its functions.

(3) The manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau shall be in such as may be prescribed.

Functions of Bureau.

4. The Bureau shall perform the following functions in relation to trafficking of persons, namely: —

(i) co-ordinate and monitor surveillance and preventive efforts along with the known or probable routes;

(ii) facilitate surveillance, enforcement and preventive steps at source, transit and destination points;

(iii) maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders;

(iv) strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence;

(v) increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under the various international conventions and protocols that are in force in respect of counter measures;

(vi) co-ordinate actions and enforcement by various bodies or authorities established under this Act;

(vii) co-ordinate actions taken by the concerned Ministries, Departments organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders;

(viii) review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies;

(ix) make sustained efforts for capacity building and training of agencies;

(x) bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders;

(xi) co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons;

(xii) co-ordinate the investigation, where international ramifications are reported or suspected;

(xiii) co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union territory Administrations;

(xiv) undertake and facilitate other investigators for investigating offences from the organised crime perspective;

(xv) develop and monitor a database on every crime under this Act;

(xvi) co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations;

(xvii) facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings;

(xviii) facilitate frequent meetings of the State Police Nodal Officers to facilitate, 20 monitor and evaluate the establishment and functioning of Anti-Trafficking Units;

(xix) provide necessary support for investigation by the Anti- Trafficking Units, where such requests are made;

(xx) undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases;

(xxi) facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution;

(xxii) protection of witnesses, where referred by any State Government, victims, complainants and affected families, as the case may be;

(xxiii) undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked;

(xxiv) monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and

(xxv) develop minimum standards of care and advice for all concerned, in matters of compliance.

**5. (1)** The Bureau may take over investigation of any offence under this Act, where referred to it by two or more States.

Investigation  
by Bureau.

(2) Where an offence is referred to the Bureau under sub-section (1), the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau.

(3) For the removal of doubts, it is hereby declared that till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act.

(4) While investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may—

(a) if it is expedient to do so, request the State Government to associate with the investigation; or

(b) with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence.

(5) While investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence.

(6) The State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under this Act.

(7) Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any offence under this Act or other offences under any other law for the time being in force.

### CHAPTER III

#### STATE ANTI-TRAFFICKING OFFICERS

State Nodal  
Officer.

**6.** (1) The State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government.

(2) The State Nodal Officer shall be responsible for follow up action under this Act, as per the directions of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organizations.

(3) The State Nodal Officer shall provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations.

(4) The State Nodal Officer shall liaison with the State Police Nodal Officer and the National Anti-Trafficking Relief and Rehabilitation Committee, for all matters relating to relief and rehabilitation.

State Police  
Nodal Officer.

**7.** (1) The State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government.

(2) The State Police Nodal Officer shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and shall also monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State.

(3) The State Police Nodal Officer shall also co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act.

(4) The State Police Nodal Officer shall liaison with State Nodal Officer and shall perform such other functions as may be prescribed.

District Police  
Nodal Officer.

**8.** (1) The State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed.

(2) The District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and the offenders.

(3) The District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties.

**9.** (1) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

Anti-Trafficking Police Officers.

(2) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

**10.** (1) The appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under this Act.

Anti-Trafficking Unit.

(2) Every local police station shall, where Anti-Trafficking Unit is not functional, undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act.

(3) The State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under this Act:

Provided that the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary steps for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit.

2 of 1974.

## CHAPTER IV

### RELIEF AND REHABILITATION AUTHORITIES

**11.** (1) The Central Government shall establish a National Anti-Trafficking Relief and Rehabilitation Committee, by notification for providing relief and rehabilitation services to the victims.

National Anti-Trafficking Relief and Rehabilitation Committee.

(2) The composition of the National Anti-Trafficking Relief and Rehabilitation Committee shall be as follows, namely:—

(i) Secretary, Ministry of Women and Child Development — Chairperson;

(ii) Representative, Ministry of Home Affairs — Member;

(iii) Representative, Ministry of External Affairs — Member;

(iv) Representative, Ministry of Labour and Employment — Member;

(v) Representative, Ministry of Social Justice and Empowerment — Member;

(vi) Representative, Ministry of Panchayati Raj — Member;

(vii) Representative, Ministry of Health and Family Welfare — Member;

(viii) Representative, Legislative Department — Member;

(ix) Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims — Members;

(x) such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed — Members; and

(xi) Head, National Anti-Trafficking Bureau — Member Secretary.

(3) The National Anti-Trafficking Relief and Rehabilitation Committee shall perform the following functions, namely:—

(i) facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned 45 Ministries, Departments and statutory bodies;

(ii) provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims;

(iii) ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims;

(iv) seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes;

(v) maintain and monitor the Rehabilitation Fund established under section 30; and

(vi) perform such other functions as may be prescribed.

State Anti-Trafficking Committee.

**12.** (1) The appropriate Government shall establish a State Anti-Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims.

(2) The State Anti-Trafficking Committee shall consist of the following, namely:—

(i) Chief Secretary — Chairperson;

(ii) Director General of Police — Member;

(iii) Secretary, Department of Women and Child — Member;

(iv) Secretary, Home Department — Member;

(v) Secretary, Labour Department — Member;

(vi) Secretary, Health Department — Member;

(vii) Secretary, State Legal Services Authority — Member;

(viii) Secretary, Law Department — Member;

(ix) Protector of Emigrants, Ministry of External Affairs — Member;

(x) State Police Nodal Officer — Member;

(xi) Two social workers out of which one shall be a woman — Member;

(xii) such other persons as may be prescribed — Members; and

(xiii) State Nodal Officer — Member Secretary.

(3) The State Anti-Trafficking Committee shall perform the following functions, namely:—

(i) identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made thereunder;

(ii) arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental;



(iii) develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services;

(iv) review and monitor the functioning of the District Anti-Trafficking Committee;

(v) make necessary funds available to the District Anti-Trafficking Committee for providing or setting up of required facilities for the implementation of the Act; and

(vi) perform such other functions and duties as may be prescribed.

(4) The State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking Relief and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

**13. (1)** The appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims.

District Anti-Trafficking Committee.

(2) The District Anti-Trafficking Committee shall consist of the following, namely:—

(i) District Magistrate or Additional District Magistrate — Chairperson;

(ii) District Officer for Women and Child Development — Member;

(iii) Representative, District Legal Services Authority — Member;

(iv) Representative, Child Welfare Committee — Member;

(v) Two Civil Society Organisations or Non-Governmental Organisations working in the field of prevention of trafficking and related issues — Members;

(vi) such other members as may be prescribed — Members; and

(vii) District Police Nodal Officer — Member Secretary.

(3) The District Anti-Trafficking Committee shall perform the following functions, namely:—

(i) direct and facilitate the person in-charge of the Protection Home or Rehabilitation Home, as the case may be, to submit an individual care plan to it;

(ii) ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan by passing necessary directions to Protection Homes and Rehabilitation Homes;

(iii) co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to the State Anti-Trafficking Committee and take appropriate actions;

(iv) facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour;

(v) facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan;

(vi) create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons;

(vii) assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc.; and

(viii) such other functions as may be prescribed.

(4) The appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures.

(5) The District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

Powers of District Anti-Trafficking Committee.

**14.** The District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims under this Act and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

2 of 2016.

## CHAPTER V

### SEARCH, RESCUE AND POST-RESCUE ACTIVITIES

Search and seizure.

**15.** The provisions of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply in relation to a search and seizure in respect of an offence under this Act. 2 of 1974.

Rescue and medical examination of persons.

**16. (1)** Where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury or illnesses incidental thereto.

(2) The provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall *mutatis mutandis* apply in relation to a medical examination of any person under this section. 2 of 1974.  
32 of 2012.

(3) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or the Police Officer, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the said Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

Safety, care and protection of person rescued.

**17. (1)** The District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit.

(2) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any delay but within twenty-four hours of the rescue.

(3) The Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person.

(4) Where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home:

Provided that, if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing.

(5) In discharging the functions under this section, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist, as the case may be, to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers.

**18. (1)** The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions of the Code of Criminal Procedure, 1973, and any other law for the time being in force.

Investigation  
and evidence.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report.

(3) The investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount.

(4) The designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund.

**19.** Where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

Presumption  
as to offences.

## CHAPTER VI

### PREVENTIVE MEASURES

**20. (1)** The State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked.

Preventive  
measures by  
State and  
District Anti-  
Trafficking  
Committees.

(2) The measures referred to in sub-section (1) shall include—

(i) co-ordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj Institutions;

(ii) facilitating the implementation of livelihood and educational programmes for vulnerable communities;

(iii) facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government;

(iv) co-ordinating with corporate sector to implement various schemes, programmes for the prevention of trafficking of persons;

(v) ensuring accountability of the concerned agencies, by regular review and appropriate action;

(vi) developing appropriate law and order framework to ensure prevention of trafficking of persons;

(vii) undertaking vulnerability mapping of the State and give focus and attention to the challenging areas;

(viii) commissioning independent research on various aspects of trafficking and ensure follow up action;

(ix) organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons;

(x) preparing an annual report on trafficking of persons in the State;

(xi) co-ordinating with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes;

(xii) linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

## CHAPTER VII

### PROTECTION AND REHABILITATION OF VICTIMS

Protection  
Homes.

**21.** (1) The appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued.

(2) The Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

Rehabilitation  
Homes.

**22.** (1) The appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued.

(2) The appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation under sub-section (1).

Registration.

**23.** (1) Notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government.

(2) If any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-section (1), he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

Application  
for providing  
care and  
protection.

**24.** (1) A victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a protection:

Provided that in case the victim or any person rescued is a child, the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

2 of 2016.

(2) The Magistrate may, pending inquiry under sub-section (3) or sub-section (4) of section 17 having regard to the circumstances of the case direct that the victim or any person rescued to be kept in such care and protection as he may consider proper.

(3) The Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

**25.** Where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

Rehabilitation not to be contingent on criminal proceedings.

## CHAPTER VIII

### REPATRIATION

**26.** (1) The District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of victims by co-ordinating with their counterparts in any other District.

Repatriation of victims.

(2) Where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be repatriated to the country of origin, it may deal with the matter under any law for the time being in force.

(3) The State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho-social professionals.

(4) The repatriation of the victims shall be completed within three months for inter-State repatriation, and within six months in case of cross border repatriation, from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be:

Provided that any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

## CHAPTER IX

### MONETARY RELIEF AND COMPENSATION

**27.** (1) Upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim.

Interim relief.

(2) The appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-section (1), within a period of one month from the date of commencement of this Act.

**28.** (1) The District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge-sheet.

Relief.

(2) The relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

## CHAPTER X

### FORFEITURE AND ATTACHMENT OF PROPERTY

**29.** (1) Where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with, in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property:

Forfeiture and attachment of property.

Provided that the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property.

(2) Where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-section (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

## CHAPTER XI

### REHABILITATION FUND

Rehabilitation  
Fund.

**30.** (1) There shall be constituted a fund by the Central Government to be called the Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto—

(a) any grants and loans made by the appropriate Government;

(b) any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government;

(c) any fine recovered for the commission of an offence under this Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973; 2 of 1974.

(d) the amount seized from any bank account frozen under sub-section (4) of section 18; and

(e) any other sums as may be received.

(2) The State Government may supplement the Rehabilitation Fund.

(3) The Rehabilitation Fund shall be utilised under this Act by the appropriate Government for —

(i) the establishment and administration of Protection Homes and Rehabilitation Homes;

(ii) supporting innovative programmes for the welfare and rehabilitation of the victims;

(iii) strengthening legal assistance and support;

(iv) providing entrepreneurial support, skill development training or vocational training;

(v) providing aftercare facilities for capital and infrastructure to the victims who are ready to integrate into mainstream society by setting up small business or profession;

(vi) providing victim and witness protection;

(vii) awareness generation programmes for the prevention of trafficking of persons;

(viii) creating community-based programmes to identify, report and prevent trafficking of persons;

(ix) providing specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals for the victims; and

(x) any other activity which may be required for effective implementation of this Act.



(4) The Rehabilitation Fund shall be maintained and monitored by the National Anti-Trafficking Relief and Rehabilitation Committee.

(5) The Rehabilitation Fund shall be made available to the State and District Anti-Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons.

(6) Any fine recovered for the commission of an offence under this Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973.

2 of 1974.

(7) The generation, dissemination and utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government.

## CHAPTER XII

### OFFENCES AND PENALTIES

**31.** Notwithstanding anything contained in any other law for the time being in force, whoever commits an offence of trafficking of person—

Aggravated form of trafficking of persons.

(i) for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities; or

(ii) for the purpose of bearing child, either naturally or through assisted reproductive techniques; or

(iii) by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition; or

(iv) by administering any chemical substance or hormones on a person for the purpose of early sexual maturity; or

(v) for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage; or

(vi) by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person; or

(vii) who is a pregnant woman or the offence results in pregnancy of the person;

(viii) by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immuno deficiency virus; or

(ix) for the purpose of begging; or

(x) who is a mentally ill person as defined in clause (I) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause (s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled; or

14 of 1987.

49 of 2016.

(xi) by encouraging or abetting any person to migrate illegally into India or Indians in to some other country,

is said to commit an offence of aggravated form of trafficking of the person.

**32.** Whoever commits the offence of aggravated form of trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than one lakh rupees.

Punishment for aggravated form of trafficking of persons.

Trafficking of persons on more than one occasion.

**33.** Whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two lakh rupees.

Punishment for keeping or allowing premises to be used as place for trafficking of persons.

**34. (1)** Whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees.

(2) Whoever—

(i) being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons; or

(ii) being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part thereof as a place for trafficking of persons,

shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and with fine which may extend to two lakh rupees.

*Explanation.*—For the purposes of sub-section (2), it shall be presumed until the contrary is proved that any person referred to in clause (i) or clause (ii) of that sub-section has not exercised due diligence in allowing to use or letting out the premises or in allowing the premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim.

(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (i) or clause (ii) of sub-section (2) of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

Closure of premises and eviction of offenders from premises.

**35. (1)** Notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order—

(i) directing eviction of the occupier or any person from the premises, within seven days of the passing of the order;

(ii) directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days



from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted.

(2) If the Magistrate, after the notice issued under sub-section (1), finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner or lessor or landlord as the case may be, with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months from the date of issuing the notice by the Magistrate.

(3) If the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the notice.

(4) When an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under clause (ii) of sub-section (1), he shall be punished with fine which may extend to one lakh rupees.

**36. (1)** A person is said to promote, procure or facilitate the commission of trafficking of person, if that person—

Punishment  
for promoting  
or facilitating  
trafficking of  
person.

(i) produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements; or

(ii) advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner; or

(iii) assists in the conduct of misrepresentation or fraud for the purposes of procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person.

(2) Whoever commits an offence under sub-section (1) shall be punished with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

**37.** Whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

Punishment  
for abetment.

**38.** Notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Punishment  
for omission  
of duty.

**39. (1)** Whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees.

Buying or  
selling of any  
person.

(2) Whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using

agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

Hiring or obtaining possession, etc. for trafficking of person.

**40.** Whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees.

Offences related to media.

**41.** (1) Whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees.

(2) Whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

Punishment for disclosure of identity.

**42.** (1) No report or newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which lead to the identification of a victim or witness of trafficking of person under this Act shall be published:

Provided that for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both:

Provided that in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

2 of 2016.

Applicability of punishment.

**43.** (1) Where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which is greater in degree.

(2) A designated court convicting a person of any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.

(3) When an occupier or any other person fails to comply with a direction given under clause (i) of sub-section (1) of section 35, he shall be deemed to have committed an offence under section 34 and shall be punished accordingly.

Punishment for attempt to commit offence under this Act.

**44.** Whoever attempts to commit an offence punishable by this Act with imprisonment or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

**45.** Nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.

Act committed by victim under coercion, compulsion, etc.

### CHAPTER XIII

#### DESIGNATED COURTS

**46.** For the purposes of providing speedy trial of any offence under this Act, the State Government shall, in consultation with the Chief Justice of the High Court, by notification, within two months from the date of commencement of this Act, designate in each district, the court of session as a Designated Court.

Designated courts.

**47. (1)** The appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act.

Special Public Prosecutors.

(2) Every person appointed as a Special Public Prosecutor under sub-section (1) shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly.

2 of 1974.

(3) Subject to the provisions contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act:

2 of 1974.

Provided that if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.

**48. (1)** The designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act.

Period and manner for recording of evidence of person who is trafficked and disposal of cases.

(2) The designated court may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality.

(3) In all matters of trans-border and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record his statement.

(4) Notwithstanding anything contained in this Act, the inquiry and trial of offences under this Act, may be conducted in camera, if an application is made in this regard by the victim.

**49. (1)** The designated court may order, where applicable, any backwages of the victim to be paid to him.

Payment to the victim.

(2) The designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or under any other law for the time being in force or otherwise at any stage of the proceedings.

2 of 1974.

(3) The appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.

2 of 1974.

**50. (1)** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of the designated court to the High Court.

Appeal.

(2) Every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

## CHAPTER XIV

### PROTECTION OF VICTIM, WITNESS AND COMPLAINANT

Protection of  
victim,  
witness and  
complainant.

**51.** (1) The designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the measures which a designated court may take under that sub-section may include—

(a) the holding of the proceedings at a place to be decided by the designated court;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

Period and manner for recording of evidence of person who is trafficked and disposal of cases.

## CHAPTER XV

### MISCELLANEOUS

Cognizance of  
offences.

**52.** (1) All offences under this Act shall be cognizable and non-bailable.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973— 2 of 1974.

(a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years.

(b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless—

(i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release;

(ii) where the Special Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail; and

(c) the victim shall have a right to be heard in all bail matters.

(3) The conditions for granting of bail specified in clause (b) of sub-section (2) shall be in addition to the conditions provided under the Code of Criminal Procedure, 1973. 2 of 1974.

Protection of  
action taken  
in good faith.

**53.** No suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder.

**54.** (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**55.** (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power of State Government to make rules.

(2) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

**56.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the difficulty:

Power to remove difficulty.

Provided, that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

2 of 1974.  
20 of 1958.

**57.** The provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

Section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 not to apply.

45 of 1860.

**58.** The provisions of section 193, 195, 199 and 203 of the Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

Sections 193, 195, 199 and 203 of Indian Penal Code to apply.

**59.** The provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

Act not in derogation of any other law.

## STATEMENT OF OBJECTS AND REASONS

Trafficking in human beings is one of the largest organised crime violating basic human rights. Trafficking in human beings may be for sexual and physical exploitation and also for other forms of exploitation like forced labour, etc. This is primarily fueled by poverty, illiteracy and lack of livelihood options. Majority of the Trafficking is within the country. However, there are instances where large number of persons are trafficked from neighboring countries and to other countries especially Middle East.

2. Presently, the subject matter of trafficking of persons is dealt with under the provisions of the Indian Penal Code, 1860 and the Immoral Traffic (Prevention) Act, 1956. Section 370 of Indian Penal Code, 1860 only defines and penalises the offence of trafficking of persons and, whereas, the provisions of the Immoral Traffic (Prevention) Act, 1956 deals with trafficking of persons for the purpose of commercial sexual exploitation and it does not recognise trafficking of persons for the purpose of physical and other forms of exploitation.

3. Keeping in view of the above deficiencies in the existing legislations and after considering the issues relating to prevention, rescue and rehabilitation of victims of trafficking, it has been considered necessary to bring a comprehensive legislation, namely, the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2019 covering all related aspects of trafficking of persons.

4. The salient features of the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 21, *inter alia*, are as follows:—

(a) it aims to prevent the trafficking of persons, to prosecute offenders and to provide care, protection and rehabilitation to the victims of trafficking;

(b) it creates a conducive legal, economic and social environment for the victims of trafficking and also addresses the transnational nature of the crimes;

(c) provides for dedicated institutional mechanism at District, State and National level for prevention, protection, investigation and rehabilitation aspects relating to trafficking;

(d) it provides for new offences with stringent punishment and fine, which are aggravated in nature and not addressed in existing laws;

(e) it provides for timely disposal of cases and repatriation of the victims;

(f) it provides for the confidentiality of victims, witnesses and complainants by not disclosing their identity. The confidentiality of the victims is maintained by recording their statement through video conferencing and by in camera proceedings.

(g) it also provides for Rehabilitation Fund for the welfare and rehabilitation of victims to ensure timely relief to the victims and also addresses their physical, mental trauma etc.;

(h) in order to break the organised nexus, both at national and international level, the Bill proposes for attachment and forfeiture of property and to remit the proceeds of crime in the Rehabilitation Fund;

(i) it also provides for immunity to victims for certain criminal actions against them; and

(j) it is also proposed to designate a Sessions Court in each district for speedy disposal of the cases under the proposed legislation and for this purposes provides for appointment of Special Public Prosecutors to deal with such cases in a time bound manner.

5. The Bill seeks to achieve the above objectives.

DR. SASMIT PATRA



*Notes on clauses*

*Clause 2* of the Bill defines various expressions used in the Bill and provides that words and expressions used but not defined in the proposed Bill and defined in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015, shall have the meanings respectively assigned to them in those Acts.

*Clause 3* of the Bill seeks to provide for the establishment of the National Anti-Trafficking Bureau by the Central Government, by notification, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions. Sub-clause (3) further provides that the manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau, shall be in the manner as may be prescribed.

*Clause 4* of the Bill seeks to provide for the functions of the Bureau including the function to co-ordinate and monitor surveillance and preventive efforts alongwith the known or probable routes; facilitate surveillance, enforcement and preventive steps at source, transit and destination points; maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders; strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence; increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long-term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under various international conventions and protocols that are in force in respect of counter measures; co-ordinate actions and enforcement by various bodies or authorities established under the Act; co-ordinate actions taken by the concerned Ministries, Departments or organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders; review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies; make sustained efforts for capacity building and training of agencies; bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders; co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons; co-ordinate the investigation, where international ramifications are reported or suspected; co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union-territory Administrations; undertake and facilitate other investigators for investigating offences from the organised crime perspective; develop and monitor a database on every crime under this Act; co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations; facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings; facilitate frequent meetings of the State Police Nodal Officers to facilitate, monitor and evaluate the establishment and functioning of Anti-Trafficking Units; provide necessary support for investigation by the Anti-Trafficking Units, where such requests are made; undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases; facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution; protection of witnesses, victims, complainants and affected families, as the case may be; undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked; monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and develop minimum standards of care and advice for all concerned, in matters of compliance.

*Clause 5* of the Bill seeks to provide for the investigation by the Bureau which includes that the Bureau may take over investigation of any offence under this Act, referred to it by two or more States; sub-clause (2) provides that where an offence is referred to the Bureau under sub-clause (1) of clause 5, the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau; till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act. Sub-clause (4) provides that while investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may if it is expedient to do so, request the State Government to associate with the investigation; or with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence. Sub-clauses (5) and (6) provides that while investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence and the State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under the Act. Sub-clause (7) provides that save as otherwise provided, nothing contained in the Act shall affect the powers of the State Government to investigate and prosecute any offence under the Act or other offences under any other law for the time being in force.

*Clause 6* of the Bill seeks to provide that the State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government, who shall be responsible for follow up action under the Act, as per the direction of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organisations, provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations and liaison with the State Police Nodal Officer, National Anti-Trafficking Relief and Rehabilitation Committee for all matters relating to relief and rehabilitation.

*Clause 7* of the Bill seeks to provide that the State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government, who shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and also to monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State and co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act and liaison with State Nodal Officer and such other functions as may be prescribed.

*Clause 8* of the Bill seeks to provide that the State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed. Sub-clause (2) provides that the District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and also of the offenders. Sub-clause (3) provides that the District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties.

*Clause 9* of the Bill seeks to provide that the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution and the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

*Clause 10* of the Bill seeks to provide that the appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under the Act. Sub-clause (2) provides that



every local police station shall undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act and where the Anti-Trafficking Unit is not functional. Sub-clause (3) provides that the State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under the Act and the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary action for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit.

*Clause 11* of the Bill seeks to provide for the establishment of National Anti-Trafficking Relief and Rehabilitation Committee by the Central Government and by notification. Sub-clause (2) provides for the composition of the Committee which shall consist of a Chairperson, who is the Secretary, Ministry of Women and Child Development, Member-Secretary who is the Head of National Anti-Trafficking Bureau, representatives from Ministry of Home Affairs, Ministry of External Affairs, Ministry of Labour and Employment, Ministry of Social Justice and Empowerment, Ministry of Panchayati Raj, Ministry of Health and Family Welfare, Legislative Department, Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims and such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed. Sub-clause (3) seeks to provide for the functions of the National Anti-Trafficking Relief and Rehabilitation Committee, including to facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned Ministries, Departments and statutory bodies; provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims, ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims; seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes; maintain and monitor the Rehabilitation Fund established under clause 30 and such other functions as may be prescribed.

*Clause 12* of the Bill seeks to provide that the appropriate Government shall establish a State Anti-Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims and shall consist of a Chairperson, who is the Chief Secretary and other Members, such as Director General of Police; Secretary, Department of Women and Child, Secretary, Home Department; Secretary, Labour Department; Secretary, Health Department; Secretary, State Legal Services Authority; Secretary, Law Department; Protector of Emigrants, Ministry of External Affairs; State Police Nodal Officer; State Nodal Officer; two social workers out of which one shall be a woman and such other members as may be prescribed. Sub-clause (3) provides for the functions of the State Anti-Trafficking Committee to identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made under it; arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental; develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services; review and monitor the functioning of District Anti-Trafficking Committee; make necessary funds available to the District Anti-Trafficking Committee for providing or setting up required facilities for the implementation of the Act, and such other functions and duties as may be prescribed. Sub-clause (4) provides that the State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking Relief and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

*Clause 13* of the Bill seeks to provide that the appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims and will consist of a Chairperson who is a District Magistrate or Additional District Magistrate, a Convener who is a District Police Nodal Officer and District Officer for Women and Child Development; representative from District Officer for Women and Child Development, District Legal Services Authority and Child Welfare Committee; two Civil Society Organisations and the Non-Governmental Organisations working in the field of prevention of trafficking and related issues and other members as may be prescribed. Sub-clause (3) further provides for the functions to be performed by the District Anti-Trafficking Committee, such as, direct and facilitate the person in-charge of the Protection Homes and Rehabilitation Homes, as the case may be, and submit an individual care plan to the District Anti-Trafficking Committee; ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan and by passing necessary directions to Protection Homes and Rehabilitation Homes, co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to State Anti-Trafficking Committee and take appropriate actions; facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour; facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan; create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons; assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc., and such other functions as may be prescribed. Sub-clause (4) and (5) provides that the appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures and the District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

*Clause 14* of the Bill seeks to provide that the District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

*Clause 15* of the Bill seeks to provide that the provisions of the Code of Criminal Procedure, 1973 shall mutatis mutandis apply in relation to a search and seizure in respect of an offence under this Act.

*Clause 16* of the Bill seeks to provide that where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury, illnesses incidental thereto to him and the provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall mutatis mutandis apply in relation to a medical examination of any person under this section. Sub-clause (3) provides that the police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

*Clause 17* of the Bill seeks to provide that the District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit by the District Anti-Trafficking Committee. Sub-clause (2) provides that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any loss of time but within twenty-four hours of the rescue. Sub-clause (3) provides that the Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person, and where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home and if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing and in discharging his functions, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers.

*Clause 18* of the Bill seeks to provide that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions laid down in the Code of Criminal Procedure, 1973, and any other law for the time being in force. Sub-clause (2), provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report. Sub-clause (3) provides that the clause provides that the investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount and the designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund.

*Clause 19* of the Bill seeks to provide that where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

*Clause 20* of the Bill seeks to provide that the State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked and such measures shall include, coordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj institutions; facilitating the implementation of livelihood and educational programmes for vulnerable communities; facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government; co-ordinating with corporate sector to implement the various schemes, programmes for the prevention of trafficking of persons, ensuring accountability of the concerned agencies, by regular review and appropriate action; developing appropriate law and order framework to ensure prevention of trafficking of persons; undertaking

vulnerability mapping of the State and give focus and attention to the challenging areas, commissioning independent research on various aspects of trafficking and ensure follow up action; organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons; bringing out annual report on trafficking of persons in the State, networking with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes; linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

*Clause 21* of the Bill seeks to provide that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued and the Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

*Clause 22* of the Bill seeks to provide that the appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued. Sub-clause (2) provides that the appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation.

*Clause 23* of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government and if any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-clause (1) of clause 23, he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

*Clause 24* of the Bill seeks to provide that a victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a Rehabilitation Home and in case the victim or any person rescued is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply. Sub-clause (2) provides that the Magistrate may, pending inquiry under sub-clause (3) or (4) of clause 17, direct that the victim or any person rescued be kept in such care and protection as he may consider proper, having regard to the circumstances of the case and the Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

*Clause 25* of the Bill provides that where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

*Clause 26* of the Bill seeks to provide that the District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of victims by co-ordinating with their counterparts in any other District and where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be repatriated to the country of origin, it may deal with the matter under any law for the time being in force. Sub-clause (3) provides that the State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho social professionals. Sub-clause (4) provides that the repatriation of the victims shall be completed within a period

of three months for inter-State repatriation, and within six months in case of cross border repatriation from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be, and any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

*Clause 27* of the Bill seeks to provide that upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim and the appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-clause (1) of clause 27, within a period of one month from the date of commencement of this Act.

*Clause 28* of the Bill seeks to provide that the District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge sheet and the relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

*Clause 29* of the Bill seeks to provide that where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property and the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property. Sub-clause (2) provides that where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

*Clause 30* of the Bill provides for Rehabilitation Fund by the Central Government for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto any grants and loans made by the appropriate Government, any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government, any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973, the amount seized from any bank account frozen under sub-clause (4) of clause 18 and any other sums as may be received. Sub-clause (2) provides that the State Government may supplement the Rehabilitation Fund and the Rehabilitation Fund shall be utilised under this Act by the appropriate Government for the establishment and administration of Protection Homes and Rehabilitation Homes, supporting innovative programmes for the welfare and rehabilitation of the victims, strengthening legal assistance and support, providing entrepreneurial support, skill development training or vocational training, providing aftercare facilities for capital and infrastructure to the victims who are ready to integrate into mainstream society by setting up small business or profession, providing victim and witness protection, awareness generation programmes for the prevention of trafficking of persons, creating community-based programmes to identify, report and prevent trafficking of persons, providing specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals, for the victims and any other activity that may be required for effective implementation of the Act. Sub-clause (4) provides that the Rehabilitation Fund shall be maintained and monitored by the National Anti-Trafficking Relief and Rehabilitation Committee



and shall be made available to the State and District Anti-Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons. Sub-clause (6) provides that any fine recovered for the commission of an offence under the Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973 and the generation, dissemination and utilization of Fund shall be regulated in the manner as may be prescribed by the Central Government.

*Clause 31* of the Bill seeks to provide for the offence of aggravated forms of trafficking, such as trafficking for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities, or for the purpose of bearing child, either naturally or through assisted reproductive techniques, or by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition, by administering any chemical substance or hormones on a person for the purpose of early sexual maturity, or for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage, or by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person, or who is a pregnant woman or the offence results in pregnancy of the person, or by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immunodeficiency virus, or for the purpose of begging, or who is a mentally ill person as defined in clause (1) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause(s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled, or by encouraging or abetting any person to migrate illegally into India or Indians in to some other country.

*Clause 32* of the Bill seeks to provide that whoever commits the offence of aggravated form of trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to life imprisonment and shall also be liable to fine which shall not be less than one lakh rupees.

*Clause 33* of the Bill seeks to provide that whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two lakh rupees.

*Clause 34* of the Bill seeks to provide that whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees. Sub-clause (92) also provides that whoever being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons, or being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part thereof as a place for trafficking of persons, shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to two lakh rupees. The clause further provides for an explanation, that for the purposes of sub-clause (2) of clause 34, it shall be presumed until the contrary is proved, that any person referred to in items (i) or (ii) of sub-clause (2) has not exercised due diligence in allowing to use or letting out the premises or in allowing the

premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim. The clause also provides that notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in items (i) or (ii) of sub-clause (2), of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

*Clause 35* of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order by directing eviction of the occupier or any person from the premises, within seven days of the passing of the order; directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted. Sub-clause (2) provides that if the Magistrate, after the show cause notice issued under sub-clause (1) of clause 35, finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord as well as the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months of the issuing of the show cause notice by the Magistrate. Sub-clause (3) provides that if the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the show cause notice and when an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under item (ii) of sub-clause (1), he shall be punished with fine which may extend to one lakh rupees.

*Clause 36* of the Bill seeks to provide that a person is said to promote, procure or facilitate the commission of trafficking of person, if that person, produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements, or advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner, or assists in the conduct of misrepresentation or fraud for the purposes of procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person. Sub-clause (2) provides for rigorous imprisonment for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine which shall not be less than one lakh rupees for the punishment for promoting or facilitating trafficking of person.

*Clause 37* of the Bill seeks to provide that whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

*Clause 38* of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act, for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

*Clause 39* of the Bill seeks to provide that whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees and may extend to one lakh rupees.

*Clause 40* of the Bill seeks to provide that whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees.

*Clause 41* of the Bill seeks to provide that whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

*Clause 42* of the Bill seeks to provide that no report or any newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which may lead to the identification of a victim or witness of trafficking of person under this Act shall be published and for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim. It also provides that any person who contravenes the provisions of sub-clause (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both: and in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

*Clause 43* of the Bill seeks to provide that where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which is greater in degree. Sub-clause (2) provides that a designated court convicting a person of



any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund. Sub-clause (3) provides that when an occupier or any other person fails to comply with a direction given under item (i) of sub-clause (1) of clause 35, he shall be deemed to have committed an offence under clause 34 and shall be punished accordingly.

*Clause 44* of the Bill seeks to provide that whoever attempts to commit an offence punishable by this Act with imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

*Clause 45* of the Bill seeks to provide that nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.

*Clause 46* of the Bill seeks to provide for Designated Courts for the purposes of providing speedy trial of any offence under this Act. It further provides that the State Government shall, in consultation with the Chief Justice of the High Court, by notification, designate for each district, a Court of Session, within two months from the date of commencement of this Act, to try any offence under this Act.

*Clause 47* of the Bill seeks to provide that the appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act and every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly. Sub-clause (3) provides that subject to the provision contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act and if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.

*Clause 48* of the Bill seeks to provide that the designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act and may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality. It also provides that in all matters of transborder and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record their statement. It also provides that notwithstanding anything contained in this Act, the inquiry into and trial of offences under this Act, may be conducted in *camera*, if an application is made in this regard by the victim.

*Clause 49* of the Bill seeks to provide that the designated court may order, where applicable, any back wages of the victim to be paid to him. Sub-clause (2) provides that the designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or under any other law for the time being in force or otherwise at any stage of the proceedings and the appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.

*Clause 50* of the Bill provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being

an interlocutory order, of the designated court to the High Court and every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against and the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

*Clause 51* of the Bill seeks to provide that the designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant. Sub-clause (2) provides that in particular, and without prejudice to the generality of the provisions of sub-clause (1) of clause 51, the measures which a designated court may take under that sub-section may include, the holding of the proceedings at a place to be decided by the designated court; the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public; the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

*Clause 52* of the Bill seeks to provide that all offences under this Act shall be cognizable and non-bailable. Sub-clause (2) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, (a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years, (b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless— (i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release, (ii) where the Special Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail, (c) the victim shall have a right to be heard in all bail matters. Sub-clause (3) provides that the conditions on granting of bail specified in item (b) of sub-clause (2) are in addition to the conditions provided under the Code of Criminal Procedure, 1973.

*Clause 53* of the Bill seeks to provide that no suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government, as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder.

*Clause 54* of the Bill seeks to provide that the Central Government may, by notification, make rules for carrying out the purposes of this Act. It also provides that every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

*Clause 55* of the Bill provide that the State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Sub-clause (2) provides that every rule made by the State Government, shall be laid, as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses or where such State Legislature consists of One House, before that House.

*Clause 56* of the Bill seeks to provide that any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette,

make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the difficulty and no such order shall be made under this section after the expiry of the period of two years from the commencement of this Act. Sub-clause (2) provides that every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

*Clause 57* of the Bill seeks to provide that the provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

*Clause 58* of the Bill seeks to provide that the provisions of sections 193, 195, 199 and 203 of Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

*Clause 59* of the Bill seeks to provide that the provisions of this Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall, by notification, establish a National Anti-Trafficking Bureau, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions.

2. Sub-clauses (1) and (2) of clause 29 provides that the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

3. Clause 30 of the Bill provides that the Central Government shall constitute a Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act. It also provides that the State Government may supplement the Rehabilitation Fund. Besides, the Rehabilitation Fund may also be credited through grants and loans made by the appropriate Government; any voluntary donations, contributions or subscriptions; any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973. Further, the proceeds through freezing of the bank accounts, as prescribed under sub-clauses (3) and (4) of clause 18, shall be remitted to the Rehabilitation fund.

4. Sub-clause (2) of clause 43 provides that the designated court convicting a person may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.

5. The financial implication arising from the establishment of National Anti-Trafficking Bureau is estimated as recurring expenditure of Rs. 10 Crores in the first year and Rs. 20 crores each in the next two years and for Rehabilitation Fund it is estimated as an initial allocation of Rs. 10 crores and to be augmented subsequently on need basis.

6. It would be difficult to indicate the exact expenditure incurred in the appointment of officers of the National Anti-Trafficking Bureau etc. The Bill does not envisage any other expenditure of recurring or non-recurring.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub- clause (3) of clause 3 of the Bill provides for the manner of selection, deputation, functioning and reporting of the officers and employees of the National Anti-Trafficking Bureau.

2. Sub-clause (4) of clause 7 of the Bill provides that the State Nodal Officer shall perform such other functions as may be prescribed.

3. Sub- clause (1) of clause 8 of the Bill provides that the police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned, as may be prescribed.

4. Item (x) of sub-clause (2) of clause 11 of the Bill provides for inclusion of other representatives of the Ministries or Departments or experts representing different States in the composition of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed. Item (vi) of sub-clause (3) of the said clause provides for prescribing other functions of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed.

5. Item (xii) of sub-clause (2) of clause 12 of the Bill provides for nomination of such other members in the State Anti-Trafficking Committee. Item (vi) of sub-clause (3) of the said clause provides for the functions of the State Anti-trafficking Committee, including the nomination of such other members as may be prescribed.

6. Item (vi) of sub-clause (2) of clause 13 of the Bill provides for nomination of other members in the District Anti-Trafficking Committee, as may be prescribed. Item (iv) of sub-clause (3) of the said clause provides for inter-State repatriation of victims or persons subjected to bonded labour by the District Anti-trafficking Committee in a time bound manner or in the manner as may be prescribed. Item (vii) of sub-clause (3) of the said clause provides for any other function as may be prescribed.

7. Sub-clause (1) of clause 21 of the Bill provides that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued. Sub-clause (2) of the said clause provides that the Protection Homes shall provide shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

8. Sub-clause (1) of clause 22 of the Bill provides that the appropriate Government, as it deems fit shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation to the victims or any person rescued.

9. Sub-clause (1 ) of clause 23 of the Bill provides that the Protection Homes and Rehabilitation Homes shall be registered under this Act in such manner as may be prescribed by the appropriate Government.

10. Sub-clause (7) of clause 30 of the Bill provides that the generation dissemination and utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government.

11. The matters in respect of which rules may be made relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## XXVII

## BILL No. LIV OF 2019

*A Bill to provide for setting up of Sal Leaves Collectors and Traders' Welfare Fund and a Board that shall administer the Fund for the welfare of sal leaves collectors and traders and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

1. (1) This Act may be called the Sal Leaves Collectors and Traders' Welfare Act, 2019.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "Board" means the Sal Leaves Collectors and traders Welfare Board established under section 4.

(c) "Fund" means Sal Leaves Collectors and Traders' Welfare Fund set up under section 3;

(d) "prescribed" means prescribed by rules made under the Act.

(e) "sal leaves collector" means any person who is engaged in the work of collecting Sal leaves, a minor forest produce, twice a year and includes a person engaged on contractual or temporary basis; and

(f) "sal leaves trader" means any person who is engaged in the business of trading or processing sal leaves or products derived out of it and also includes a person transporting Sal leaves' or its products for the purpose of directly selling them in the market.

**3. (1) The Central Government shall by notification in the Official Gazette set up a Fund to be known as the Sal Leaves Collectors and Traders' Welfare Fund.**

Sal Leaves  
Collectors and  
Traders'  
Welfare Fund.

**(2) The Fund shall consist of contributions from Central Government and the State Governments in such ratio as may be prescribed.**

**4. (1) The Fund shall be administered by a Board to be called the Sal Leaves Collectors and Traders Welfare Board, consisting of—**

Sal Leaves  
Collectors and  
Traders  
Welfare Board.

(a) a Chairperson to be appointed by the Central Government;

(b) one representative from each State Government where sal leaves collection and trading is a major occupation;

(c) two representatives of sal leaves collectors and sal leaves traders to be nominated in such manner as may be prescribed; and

**(2) The salary and allowances payable to, and other terms and conditions of the service of Chairperson and other members of the Board shall be such as may be prescribed.**

**5. (1) The Board shall determine the purposes for which the Fund shall be utilized.**

Functions of  
the Board.

**(2) Notwithstanding anything in sub-section (1), the Fund shall be utilized for the following purposes:—**

(i) payment of old-age pension at the rate of rupees five thousand per month after the sal leaves collector or trader has attained the age of sixty years and is incapable of performing his job on account of physical illness, infirmity or incapacity;

(ii) free healthcare facilities for the sal leaves collectors and traders and their dependent family members at the designated Government and other hospitals;

(iii) free insurance cover to sal leaves collectors and traders; and

(iv) free housing facilities for sal leaves collectors and traders.

**6. Every sal leaves collector and trader shall be entitled to such assured minimum wage as may be fixed by the appropriate Government, irrespective of the number of leaves collected or traded by him.**

Collectors and  
traders' to be  
assured  
minimum  
wage.

**7. Any person who does not comply with the provisions of Section 5, shall be punished with a fine which may extend to rupees thirty thousand.**

Penalty.

**8. The Central Government shall after due appropriation made by Parliament by Law in this behalf, provide adequate funds to the Board for the effective implementation of the provisions of the Act.**

Central  
Government  
to provide  
adequate funds.

**9. The provisions of this Act shall be addition to and not in derogation of any other law providing for matters dealt with in this Act.**

Act to be not  
in derogation  
of other laws.

Power to  
make rules.

**10.** (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.



## STATEMENT OF OBJECTS AND REASONS

Over 25 million people, mostly from Particularly Vulnerable Tribal Groups (PVTGs), are engaged in collecting and trading Sal leaves and its derivatives like Sal leaves plates which are widely used for, *inter alia*, marriage ceremonies, birth ceremonies, death ceremonies etc.

The conditions of sal leave collectors and traders are worsening day by day. The collectors are mostly tribal women in sal trees dominated states like Odisha. The leaves are stitched into plates and bowls to be sold in the market. There are no provisions as to a minimum wage, housing facilities, health insurance or any sort of medical treatment free of cost. A lot of sal collectors die of diseases or bodily infirmities, which are easily avoidable with basic medical intervention.

With the increasing awareness amongst people of non-usage of plastic and thermocol for plates and bowls sal leaves *thalis* and bowls' demand is bound to increase. In such a scenario, there is a need to incentivize the people engaged in the activity of collecting and trading Sal leaves and its products to keep continuing the task. Also, in old age these sal leaves collectors and traders have no social security or access to any welfare measures which is the need of the hour.

Hence, this Bill.

DR. SASMIT PATRA

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#### FINANCIAL MEMORANDUM

Clause 3 provides for setting up of a Sal Leaves Collectors and Traders' Welfare Fund for welfare of Sal leaves collectors and traders. Clause 4 provides for constitution of a Board for administration of the Sal Leaves Collectors and Traders' Welfare Fund. Clause 8 provides that the Central Government shall provide adequate Fund to the Board for effective implementation of the provisions of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India.

It is estimated that a sum of rupees three hundred crore is likely to be involved out of the Consolidated Fund of India per annum.

A non-recurring expenditure of Rupees two hundred crore is also likely to be involved.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## XXVIII

## BILL No. LXXI OF 2019

*A Bill to provide for the establishment of a commission for reorganization of states within the geographical boundaries of the Union of India with an objective to preserve and strengthen the unity of the India keeping into consideration, the linguistic, cultural, financial, economic and administrative viability of reorganization of a state corresponding to the safety and welfare of the citizens of the state as well as of the citizens of the nation.*

BE it enacted by Parliament in the Seventieth Year of Republic of India as follows:—

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the States Reorganization Commission Bill, 2019.
- (2) It shall extend to whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and  
commencement.

Definitions.

**2.** In this Act, unless the context otherwise requires,—

- (i) "Chairperson" means the Chairperson of the Commission;
- (ii) "Commission" means the States Reorganization Commission established under section 3;
- (iii) "Deputy Chairperson" means the Deputy Chairperson of the Commission;
- (iv) "dissolution" means the action of formally discontinuing the existence of the Commission after the Commission has formally discharged its functions as assigned to it under section 8 of this Act;
- (v) "Members" means the Members of the Commission; and
- (vi) "prescribed" means prescribed by the rules as made under this Act.

## CHAPTER II

### THE STATES REORGANIZATION COMMISSION

Constitution  
of States  
Reorganization  
Commission.

**3. (1) The Central Government shall constitute a Commission, to be known as the States Reorganization Commission, to exercise the power conferred upon, and to perform the functions assigned to it, under this Act.**

**(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, and shall by the said name sue and be sued.**

**(3) The head office of the Commission shall be at New Delhi.**

Composition  
of  
Commission.

**4. (1) The Commission shall consist of the following persons to be appointed by the Central Government, namely:—**

- (a) a Chairperson;**
- (b) a Deputy Chairperson;**
- (c) the following persons as Members, namely:—**
  - (i) two representatives from Ministry of Home Affairs, not below the rank of Additional Secretary to the Government of India;**
  - (ii) three representatives from All India Services, preferably from Indian Administrative Services and Indian Police Services not below the rank of Joint Secretary or equivalent; and**
  - (iii) a retired Judge of the Supreme Court or the High Court.**

**(2) The Central Government may also appoint temporary or part-time Members to the Commission, as may be prescribed, who shall be selected from amongst persons who:—**

- (a) have special knowledge of the finances and accounts of the Government; or**
- (b) have considerable experience in matters of state administration; or**
- (c) have special knowledge of linguistics and culture of the concerned state; or**
- (d) are members of state services of the concerned state; or**
- (e) are, or have been qualified to be appointed as Judge of High Court.**

**(3) The Chairperson, Deputy Chairperson and other members of the Commission shall be persons of outstanding ability and eminence, proven capacity for institution building and governance with high levels of integrity; with not less than experience of ten years in handling matters of public affairs.**

5. (1) The Chairperson, Deputy Chairperson/Members and part-time Members shall hold office for such period, beginning from the date of appointment by the Central Government, till the date of dissolution of the Commission after the Commission discharges the purposes mentioned as per this Act:

Term of Office and conditions of service of Chairperson, Deputy Chairperson and Members.

Provided that Chairperson, Deputy Chairperson and Members shall cease to hold office on attaining the age of seventy years or earlier on resignation, by letter addressed to the President of India.

(2) Where a Member is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to any valid reason in the opinion of Commission, such Member shall be deemed to have vacated the seat.

(3) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination by the Central Government.

**(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson, Members part time Members and officers and staff of the Commission shall be such as may be prescribed.**

6 (1) The Central Government may, by order, remove from office the Chairperson, Deputy Chairperson or any Member, who –

Removal of Chairperson and Members of Commission.

(a) has been adjudged an insolvent; or

(b) has been convicted with an offence which, in the opinion of Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of continuing in office; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has acquired such financial or other interests as is likely to affect prejudicially his functions; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest.

(2) No person shall be removed under clauses (e) and (f) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

7. (1) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

Meetings of the Commission.

(2) The Chairperson shall preside over the meeting of the Commission and if for any reason the Chairperson is unable to attend a meeting of the Commission, the Deputy Chairperson, shall preside over the meeting.

(3) The Commission shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations made under this Act.

(4) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson.

8 (1) The Commission shall perform such functions with regard to the reorganization of the State as may be assigned to it by the Central Government.

Functions of the Commission.

(2) Without prejudice to the generality of the foregoing provision, the Commission shall ensure the following for the preservation of unity of the nation as well as safety and welfare of the citizens of the state:—

(a) allocate land within the geographical boundary of the Union of India;

(b) allocate water and other natural resources after reorganization.

(c) in conformity to the All India Services Act of 1951, allocate All India Services officers after reorganization.

(d) in consultation with the State Government, allocate state Government employees after reorganization,

(e) in consultation with the Election Commission of India and, delimit constituencies for the elections to the House of the People and State Legislative Assemblies; and

(f) allocation of financial assets after reorganization.

Powers of  
Commission.

**9. (1)** The Commission shall be entrusted with such powers as may be presented by the Central Government to ensure proper fulfillment of the function under this Act.

(2). The Commission shall have the power to:—

(a) order any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission; and

(b) secure the assistance of any office or agency under the administrative control of the State undergoing reorganization, for carrying out the functions of the Commission assigned under this Act.

### CHAPTER III

#### MISCELLANEOUS

Powers of  
Central  
Government  
to issue  
directions to  
the  
Commission.

**10. (1)** In performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy of reorganization as the Central Government may issue from time to time:

Provided that the Commission shall be duly given an opportunity to communicate and express its views before any direction is given to it.

(2) The decision of the Central Government, whether the concern expressed by the Commission is one of policy of reorganization or not, shall be final.

Report of the  
Commission.

**11. (1)** The Commission shall submit its report on the reorganization of states to the Central Government within a period of one year of the date of first sitting of the Commission:

Provided that the Central Government, may, on a special request made by the Commission, extend the time of submission of such report by not more than six months as it may deem appropriate.

(2) The Commission shall furnish any information related to the process of reorganization, as sought by the Central Government from time to time:

Provided that the Commission shall duly be given time to collect and collate the sought information as deemed appropriate by the Central Government.

(3) The report as stated in sub-section (1) and information as stated in sub-section (2), after critical observation by the Central Government, be published in a downloadable format on a Central Government Website:

Provided that the report shall be published within not more than fifteen days from the date of submission to the Central Government and any other information shall be published within not more than seven days from the submission of information to the Central Government.

**12. (1) The Commission shall have its own funds and all the receipts of the Commission shall be credited thereto and all payments made by the Commission shall be made therefrom.**

Finance and accounts of the Commission.

**(2) The Central Government shall after due appropriation made by Parliament by law in this behalf grant sums of money to the Commission to carry out its functions, as it may consider necessary.**

**(3) The Commission may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as an expenditure payable out of the fund of the Commission.**

**(4) Funds belonging to the Commission shall be kept in such bank as may be prescribed by the Central Government for the purpose or invested in securities authorized by the Indian Trusts Act, 1882, at the discretion of the Commission.**

2 of 1882

**(5) If any sum granted by the Central Government remains wholly or partly unspent after the dissolution of Commission, such sum may, at the direction of Central Government, may be used for other official purposes as deemed fit by the Central Government.**

**13. (1) If any difficulty arises in giving effect to the provisions of this act, the Central Government may make such an order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty so arisen:**

Powers of Central Government to remove difficulty.

Provided that no such order or direction shall be given after the process of reorganization of state or dissolution of the Commission, whichever is earlier, has been completed.

**14. (1) The Central Government may, by notification published in the Official Gazette, make rules for carrying out the purposes of this act.**

Power of Central Government to make rules.

**(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may comprise of one session or two or more successive sessions. If before the expiry of the session, immediately following the session or the successive sessions aforesaid, both the Houses are in agreement of any applicable modification in the rule(s) or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may so be. However, that any such modification or annulment shall be, without prejudice, to the validity of anything previously done under that rule.**

## STATEMENT OF OBJECTS AND REASONS

The States Reorganization Commission was formed in 1953 to receive recommendations for fair partition of the states of the Union of India after Independence. The Commission's primary purpose then was to re-organize India which could be said to be a result of accidents and circumstances attending to the growth of British power. Now, after 72 years of Independence, a new Commission is required which would focus upon the reorganization of the states and districts from other modern viewpoints, specific to the financial, economic and administrative viability corresponding to the present day India and needs of the state seeking any such reorganization.

Hence this Bill.

SASMIT PATRA



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FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson, Members, part-time Members and officers and staff of the Commission. Clause 12 of this Bill provides for the grants of sums of money to the Commission to carry out its functions as prescribed. Therefore recurring expenditure is involved from the consolidated Fund of India which cannot be estimated at present. No non-recurring expenditure is likely to be incurred.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

## XXIX

## BILL NO. LVI OF 2019

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

Short title and  
commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 2019.

(2) It shall come into force with immediate effect.

Amendment  
of Article 16.

2. In article 16 of the Constitution, after clause (6), the following clause shall be inserted, namely:—

"(7) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or economically weaker section or the Scheduled Castes or the Scheduled Tribes, to provide in their favour reservation of appointments or posts in Private sector."

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STATEMENT OF OBJECTS AND REASONS

India is a country of diverse people and religion. Some people have fared better than the others and therefore the concept of reservation was introduced in the system to bring at par the marginalized and backward classes of the people. Article 16 prohibits discrimination in employment in any government office. However, the government can allow reservation for any community if they are not adequately represented in service or posts under the State.

In this scenario, when the public sector is shrinking, the provisions for reservations of posts or appointments for weaker sections of the society, as contemplated under article 16(4) or under the Mandal Commission Report, are losing their significance, insofar as protection of the interests of the Scheduled Castes, Scheduled Tribes and Backward Classes are concerned. Therefore, in order to bring Scheduled Castes, Scheduled Tribes Backward Classes and economically weaker sections in the national mainstream, it is proposed that the State shall make special provision for reservation of posts, or appointments in government service and private service. The Bill seeks to amend article 16 of the Constitution to allow reservation in employment opportunities in private sector.

Hence, This Bill.

K.K. RAGESH

## XXX

## BILL NO. LXVIII OF 2019

*A Bill to establish a National Commission for Food Grain Management as an autonomous authority for supervision of Food Corporation of India and State Procurement Agencies, to act as an advisory body for scientific storage, handling and transportation of food grains in order to combat water crisis and reduce the wastage of food grains and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the National Commission for Food Grain Management Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** In this Act, unless the context otherwise requires;

(a) "Commission" means the National Commission for Food Grain Management;

(b) "Chairperson" means the Chairperson of the National Commission for Food Grain Management appointed under section 4; and

(c) "Corporation" means the Food Corporation of India.

3. (1) The Central Government shall constitute a Commission, to be known as the National Commission for Food Grain Management, to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

Constitution  
of National  
Commission  
for Food Grain  
Management.

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with powers, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Commission shall be at New Delhi.

4. (1) The Commission shall consist of the following persons to be appointed by the Central Government, namely:—

Composition  
of  
Commission.

(a) a Chairperson;

(b) six *ex officio* Members; and

(c) ten part-time Members.

(2) The Chairperson of the Commission shall be the Union Minister or Union Minister of State of Consumer Affairs and Public Distribution.

(3) The *ex-officio* members shall be—

(a) five Ministers heading the Public Distribution (by whichever name it may be called in the state) in their respective states, chosen on rotational basis; and

(b) the Chairman of the Corporation.

(4) The ten part-time Members shall be nominated by the Central Government, who shall not less than forty-five years of age and shall consist of:—

(a) Two Chief Executive Officer or Managing Director of Indian Private Chartered Accountant Audit Firms as may be prescribed;

(b) Two specialists possessing expertise in technology of scientific storage, having sufficient experience in designing, processing and engineering of agro-logistics;

(c) Two experts having knowledge of government finances or accounts, or having experience in administration and financial expertise; and

(d) Four Joint Secretary level Officers who have experience in the field of agro-logistics, internal auditing and public distribution.

5. (1) The part-time Members, appointed under sub-section (4) of section 4, shall hold office for a term not exceeding four years and shall be eligible for extension or re-appointment.

Terms and  
Conditions of  
Members of  
Commission.

(2) The term of offices as an *ex officio* Member shall continue as long as the person holds the office by virtue of which he is such Member.

(3) Where a Member, other than an *ex officio* Member is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to any valid reason in the opinion of the Commission, such Member shall be deemed to have vacated the seat.

(4) The salaries and allowances payable to, and other terms and conditions of service of the part-time members appointed unles clause (a) to (c) shall be such as may be prescribed by the President.

(5) The Chairperson or a Member may relinquish his office by giving in writing to the President, a notice of not less than three months:

Provided that such person may be relieved from duties earlier than three months or be allowed to continue beyond three months until a successor is appointed, if the Central Government so decides.

Removal of  
Members.

6. (1) The President may, by order, remove from office the part-time Members, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest.

(2) No member shall be removed under clauses (e) and (f) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Appointment  
of experts,  
professionals,  
officers and  
other  
employees of  
Commission.

7. (1) The Commission may, for the efficient discharge of its functions under this Act, appoint such officers and other employees, as it considers necessary, against the posts created by the Central Government.

(2) The salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees of the Commission shall be such as may be prescribed by the Central Government.

(3) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in such fields, including crop management, agro-logistics infrastructure, scientific management of foodgrains, economics, quality assurance, agriculture related research, science and technology, auditing, administration, finance, accounts and law, as it deems necessary, to assist the Commission in the discharge of its functions under this Act,

Meeting of  
Commission.

8. (1) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

(2) The Chairperson shall preside at the meeting of the Commission, and if, for some reason the Chairman is not able to attend, The may nominate any *ex-officio* member to chair the Meeting.

(3) Unless the procedure to be followed at the meeting of the Commission is otherwise provided by regulations, one-half of the total number of Members of the Commission including the Chairperson shall constitute the quorum and all the acts of the Commission shall be decided by a majority of the members, present and voting and in the event of equality of votes, the Chairperson shall have the casting vote.

(4) No act done by the Commission shall be questioned on the ground of the existence of a vacancy in, or a defect in the constitution of, the Commission.

(5) A person who is aggrieved by any decision of the Commission may prefer an appeal to the Central Government against such decision within thirty days of the communication of such decision.

Powers and  
Functions of  
Commission.

9. (1) The Commission shall perform the following functions, namely:—

(a) supervise the functioning of the corporation and State Procurement Agencies through periodic internal audits of its offices.

(b) recommend policies and programmes for maintaining high standards in agro-logistics and scientific silo construction to replace the cover and plinth storage system, especially in the consuming States;

(c) lay down mission mode targets and draw a roadmap through Public Private Partnership (PPP) in consultation with the corporation and State Procurement Agencies for achieving the target of silo construction by the year 2025.

(d) conduct internal audits of the Corporation and State Procurement Department through outsourcing to independent third party private audit firms and reporting any discrepancy to the Central Government or Governor of the State;

(e) Formulate a pro-active liquidation policy of excess stock through exports in collaboration with the Ministry of Commerce and Industry.

(f) recommend the reserve price under Open Market Sale by the corporation through an expert committee.

(g) establish a real-time digital repository of stock procurement by the Corporation and State Procurement Agencies to ensure *inter-state* co-ordination through collaboration with National Informatics Centre.

(h) Conduct a periodic by-annual survey of the stock requirement wastage and storage facilities under targetted public distribution scheme of each State.

(i) Food Grain Management Index annually to assess the reduction of food wastage and growth of scientific storage infrastructure, both public and private, to achieve the targetted storage by the year 2025.

(j) Recommend measures to rationalize the subsidies given through the Fair Price Shops.

(k) Promote procurement of pulses and millets to incentivize farmers to produce less water intensive crops.

(l) Any other function as may be prescribed by the Central Government.

**10.** The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act from time to time.

Central Government to provide Funds.

**11.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty.

Power to remove difficulties.

**12. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament agrees in making any modification in the rule or Parliament agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modifications or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The Bill intends to establish an autonomous regulatory institute, National Commission for Food Grain Management (NCFM) under Ministry of Consumer Affairs to supervise the functioning of the Food Corporation of India and the State Procurement Agencies. There is a lack of scientific management in the food procurement system, which creates a vicious cycle of wastage and financial loss. Food Corporation of India, as pointed by the Shanta Kumar High Level Committee needs a complete overhaul with a stronger supervision to make the system efficient.

2. According to reply given by the Ministry of Consumer Affairs, Food & Public Distribution on 21st June 2019, the quantity of damaged food grain in 2018-19 was almost double the quantity damaged last year. This highlights the lack of sufficient storage capacity during a good monsoon. Government of India has approved an action plan for construction of steel silos in the country for a capacity of 100 LMT in Public Private Partnership (PPP) mode for modernizing storage infrastructure and improving shelf life of stored food grains. Against this, as on 31.12.2018, steel silos of only 6.25 LMT capacity have been created. The NCFM will ensure stricter compliance and greater transparency in the working of the FCI.

3. The FCI also hires chartered accountant firms for its internal audit of regional offices through bidding. Under the Bill, this function has been transferred to NCFM, which will appoint chartered accountants to audit the FCI regional offices as well as the State Procurement Agencies, to verify the records of stock procurement, storage capacity, etc.

4. In order to offload its excess stock, the FCI undertakes Open Market Sale of wheat and rice at a reserve price, often lesser than the market price. This disrupts the market and burdens the Government exchequer. The key factor is that there is no pro-active liquidation policy. Department of Food and Public Distribution (DFPD) and the FCI has to work in tandem to liquidate stock in Open Market Sale Scheme (OMSS) or in export markets, whenever stocks go beyond the buffer stock norms. The NCFM is also tasked with the function of conducting periodic surveys of the buffer stock requirement so that excess could be sold/exported at profitable prices through prior planning.

5. The High Level Committee also recommended total end to end computerization of the entire food management system, starting from procurement from farmers, to stocking, movement and finally distribution through TPDS. The NCFM is entrusted to create an online data repository with information on real time procurement, stock and storage capacity of FCI as well as the State agencies.

6. The NCFM will also conduct a periodic survey of requirement of stock across the country to measure the total stock required for TPDS to further strengthen the data monitoring system to assist the policy making process at the executive level.

7. Paddy and wheat, being the majorly procured crops are also the most water-intensive ones. producing a kilogram of rice requires an average of 2,800 liters of water, while a kilogram of wheat takes, 1,654 liters, says Water Aid India's "Beneath the Surface: The State of the World's Water 2019" report. Thus, the wastage of food grains due to unscientific infrastructure must be intolerable in a country on the verge of a water crisis.

8. This Bill intends to achieve the above objectives.

NARESH GUJRAL



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FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for constitution of the National Commission for Food Grain Management to exercise the powers and to perform the functions assigned to it, Sub-clause (1) of clause 4 provides for the appointment of Ten Part Time Members of the Commission. Sub-clause (4) of clause 5 provides for payment of salaries and allowances to the part-time members Sub-clause (1) of clause 7 provides provides for appointment of officers and other employees of the Commission. Sub-clause (2) of said clause provides for payment of salaries and allowances to officers and other employees of the Commission.

2. The expenditure would be largely met from corpus of the existing budgetary support by the Government to the Ministry of Consumer Affairs and Public Distribution an further, as expenditure would depend on the number of meetings of the Commission as well as the salary prescribed for the members and officers by the the Central Government, recurring or non-recurring expenditure cannot be anticipated at this stage.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

The Clause 12 of the Bill empowers the Central Government to frame rules for carrying out the purposes of this Act. As the rules will relate to matters of debit only, the delegation of legislature power is of a normal character.

## XXXI

## BILL NO. LI OF 2019

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and  
commencement.**1.** (1) This Act may be called the Constitution (Amendment) Act, 2019.

(2) It shall come into force at once.

Amendment to  
article 217.**2.** In article 217 of the Constitution, in clause (1), for the words "sixty-two years", the words "sixty-five years" shall be substituted.Amendment to  
article 224.**3.** In article 224 of the Constitution, in clause (3), for the words "sixty-two years", the words "sixty-five years" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

The persistent problem of backlog of cases in the higher judiciary — the High Courts and Supreme Court is a matter of grave public concern. As per recent statistics, there are 58,669 cases pending before the Supreme Court and about 45 lakh cases pending before the High Courts. It is a well known adage that justice delayed is justice denied. There are several factors which contribute to the inability of our higher judiciary to effectively tackle the backlog of cases. One of the chief causes of delay in disposing cases is the large number of vacancies in High Courts across the country. As per the Department of Justice, as on 01.11.2019, out of a total sanctioned strength of 1079 Judges across 26 High Courts, 424 positions are vacant. This situation is further worsened by the fact that when judges retire, appointment of new judges in thier places is not immediate. The Memorandum of Procedure for appointment of Judges states that the process of filling up of vacancies must commence six months prior to the expected date of retirement of High Court Judges, so that the vacancy is immediately filled upon retirement of a judge. However, due to various reasons, this process is not completed on time leading to large number of vacancies as stated above.

2. One of the ways in which this situation can be ameliorated is by increasing the age of retirement of High Court Judges from 62 to 65 years. When the Constitution was originally enacted, article 217 (1) fixed the age of retirement of High Court Judges as 60 years. Subsequently, within 13 years, it was realized that the human body and mind does not become so incapacitated at the age of 60 that Judge must retire at that age. Hence, by virtue of the Constitution (Fifteenth Amendment) Act, 1963, the age of retirement was increased to 62 years. From 1963 onwards, the age of retirement has remained at 62. Over the past five decades, advancement in science and technology, medicine, better infrastructure and lifestyle has allowed Indians in other walks of life to be efficient, functional and work well up to the age of about 75 years.

3. In fact, in the year 2018, 25 retired Chief Justices and Judges of various High Courts were designated as Senior Advocates by the Supreme Court and in the year 2016, 26 such retired Chief Justices and Judges of the High Court were designated as Senior Advocates by the Supreme Court. This shows that the Judges upon retirement are keen on continuing to work in the legal field in one capacity or the other. This is due to two reasons:

- (i) The mind of an intellectual who has worked tirelessly as a Judge of the High Court cannot remain idle at the age of 62 when much energy, enthusiasm and zeal is still left to contribute.
- (ii) Judges need to continue to work in order to maintain a good standard of living, since their pensions are not entirely sufficient to maintain themselves and their families in urban cities.

4. In these circumstances, the time has come to increase the age of retirement of Judges of the High Court from 62 to 65 years. This would not only help the judicial system but also the public at large, specifically the litigants before the Courts. The judicial system would be greatly benefited because a person who has a wealth of experience under his or her belt by virtue of a long tenure in the High Court would continue to serve the High Court for a further period of 3 years. undoubtedly, the experience of the Judge would mean that he or she is better suited to perform the functions of a Judge than a newly elevated Judge of the High Court. The wealth of judicial experience gained over a decade or so in the High Court cannot be replaced by a newly elevated Judge. Longer tenures also ensure impartiality of Judges — an oft raised criticism is that Judges begin looking for post-retirement jobs in the last year of their service. This can be removed by extending their tenure by a further three years. Similarly, the litigant public is also benefited, since the occurrence of vacancies would be less frequent and consequently, there would be Judges to hear and dispose cases. Such a move would also benefit the Government of the day, since the Government would not be frequently embroiled with the process of appointment of new Judges.

5. In 2000, The National Commission to review the working of the Constitution (NCRWC) also known as Justice M.N. Venkatachaliah Commission was set up by the then NDA Government. The said Commission submitted its report in the year 2002. One of the recommendations of this Commission was to increase age of retirement Judges of the High Court to 65 years. In 2010, the constitution (114th Amendment) Bill was tabled to increase the age of High Court Judges to 65 years. However, this Bill could not be passed.

6. Internationally, the age of retirement of Judges is well above the current age of 62 years in India. The age of retirement of Judges in developed countries with good medical facilities and infrastructure is around 70. The USA, Austria and Greece, have lifetime tenure for Judges of its Supreme Court and Federal Courts. In the U.K., the age of retirement is presently 70, though there have been calls to increase it to 75. In Belgium, Denmark, Ireland, the Netherlands, Norway and Australia, the retirement age for judges is 70 years. Judges in Canada and Germany retire at 75 and 68, respectively. Although India is a developing country, the Government provides Judges of the High Court with staff car, housing and sufficient facilities like office assistants, domestic assistants, etc. Therefore, our Judges are definitely in a position to continue serving as Judges of the High court till the age of 65 years.

7. Apart from this, the Hon'ble Law Minister has also informed the Parliament that the Hon'ble Chief Justice of India has also sent a proposal to the Government to increase the age retirement of High Court Judges to 65 years.

8. In view of the above, the instant bill proposes to increase the age of retirement of High Court Judges by amending the constitution article 217 (1) and 224 (3).

9. The Bill seeks to achieve the above objectives.

P. WILSON

## XXXII

## BILL NO. L OF 2019

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2019.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In the Constitution of India, after article 44 the following article shall be inserted, namely—

Insertion of  
new Article  
44A.

“44A. The State shall take steps to control population growth by promoting small family norms and achieve a stable population.”

Control of  
Population.

3. In article 51A, after clause (k), the following shall be inserted, namely—

Amendment  
of article 51A.

(1) to adopt small family norms and work towards achieving a stable population.

## STATEMENT OF OBJECTS AND REASONS

India is world's second most populous country after China. Aggressive population control measures have led to a substantial decline in fertility rate in China and, according to a recent United Nations report, India is slated to become the world's most populous nation in the next decade.

India has had a state-sponsored family planning programme since 1951. Of late, the programme has shown some results. The total fertility rate (TFR) has fallen from around 6 at the time of independence, to around 2.3. The results of the programme have, however, been skewed. While the States in the southern part of India and most States in western India have been receptive to the idea of family planning, many States in the northern part of the country, which also account for majority of our population, have not shown encouraging results. The larger States of Uttar Pradesh, Madhya Pradesh and Bihar still continue to have a high fertility rate nearing 3. So much so that the gains of achievement of other States in population control have largely been neutralised by the rise in population in these States.

The benefits of collective efforts of nation building have been squandered by rise in population which is evident from economic data. India's per capita GDP in 1998 was \$413 and it has grown to about \$2016 in the year 2018. However, during this period our population is estimated to have grown from 1 billion to 1.4 billion. If we had a stable population during this period, the per capita GDP would have been higher by another 40 percent. Certainly, a rising population limits the ability of the State to provide better quality of life to its citizens, since a large chunk of national income is spent on maintaining the existing facilities.

It is, therefore, essential that a more focused approach is adopted, even if it requires a change of strategy. Towards this end, the Bill seeks to insert a new directive principle in Part IV of the Consitution enjoining upon the State to take all steps to control population growth by promoting small family norms and achieve a stable population. The Bill also makes it a fundamental duty for citizens to adopt small family norms and work towards a stable population of the country.

The Bill seeks to achieve the above objectives.

RAM KUMAR VERMA

## XXXIII

## BILL NO. LXIX OF 2019

*A Bill to provide every citizen the right to breathe clean air, free from pollutants and industrial effluents; to empower the appropriate authorities to combat air pollution; to enhance air quality monitoring across urban and rural areas; to give legislative sanction to the national-level strategy set out in the National Clean Air Program (NCAP) and for matters connected therewith or incidental thereto.*

WHEREAS the right to breathe clean air enumerates from protection of life and personal liberty as enshrined in article 21 of our Constitution;

AND WHEREAS this right to clean air has been interpreted to mean, but is not limited to, the freedom to live and breathe clean air, without regard whether an individual is in rural or urban India;

AND WHEREAS the right to clean air requires access without discrimination, but due to economic disparity, only a privileged few have access to clean air;

AND WHEREAS vehicular, industrial and dust pollution and construction works are the major sources of pollutants across the urban parts of the nation and biomass burning

remains a concern in the rural areas, with particulate matters proving to be the major challenge across the nation;

AND WHEREAS the right to clean air should be a right available to future generations of Indians, just as our ancestors taught us to live in harmony with the environment;

NOW, THEREFORE, it is necessary to provide for an enforceable means to protect the access and right of all individuals to clean air.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Right to Breathe Clean Air Act, 2019.

(2) It shall extend to the whole of India, save as otherwise provided in this Act.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

**2.** (1) In this Act unless the context otherwise requires:—

(a) "appropriate Government" means in relation to the Central Government or a Union Territory Administration, the Central Government; in relation to a State Government, that State Government; and in relation to public authority which is established, constituted, owned controlled or substantially financed by funds provided directly or indirectly:—

(i) by the Central Government or a Union Territory Administration, the Central Government;

(ii) by a State Government, that State Government;

(b) "appropriate authority" means the Environment Pollution (Prevention and Control) Authority (EPCA) as constituted under the Environment (Protection) Act, 1986 or other such body as the Central Government may deem fit to carry out such functions; 29 of 1986.

(c) "Clean air" means air that does not contain pollutants or such substances, in such concentration or emission above the limits or levels of exposure as are set out in—

(i) Schedule I (pollutants relating to local and atmospheric pollution);

(ii) Schedule II (indoor air pollutants);

(iii) Schedule III (pollutants causing environmental harm);

(iv) Schedule IV (pollutants causing climate change);

to this Act;

(d) "pollutants" means those particles, gases or other substances that are emitted directly into the air or are formed from secondary chemical reactions in the air, including smoke, grit, dust, fumes, aerosols, volatile organic compounds, carbon dioxide, and other greenhouse gases; and

(e) "pollution free zones" means those geographical areas as defined by orders passed by the appropriate authority from time to time.

(2) All other words expressions used herein but not defined and defined in the General Clauses Act, 1897 or the Code of Criminal Procedure, 1973 as the case may be, shall have the same meanings as assigned to them in those Acts. 10 of 1897.  
2 of 1974.

Right to clean  
air.

**3.** In exercising the powers conferred by this Act, regard shall be had to the following considerations, namely:—

(1) that the right to breathe clean air shall be right available to each individual, irrespective of socio-economic background, and that such right shall not be circumscribed in any way;



(2) that article 21 of the constitution enumerates the right to clean air as a fundamental right and that India is party to international treaties which expressly state such a right;

(3) that the Environment Pollution (Prevention and Control) Authority (EPCA) shall take into account the best available scientific knowledge and guidance on ambient air pollutants from the World Health Organization (WHO);

(4) that the EPCA shall take the necessary steps to ensure that all industries, factories, workplaces, manufacturers, shall be monitored for signs of air pollution;

(5) that employers shall ensure that adequate measures are taken to ensure that ambient air quality in the workplace is within prescribed norms;

(6) that while there may be exceptions and restrictions to this right, due regard shall be paid to ensuring that such restriction and exceptions are limited by nature of time and space.

4. The Central Government may, if it considers it necessary or expedient to do so for the purposes of this Act, by order, grant the appropriate authority the exercise of such powers to perform the functions or taken the measures so mentioned in the order required to exercise those powers or perform those functions as mentioned in this Act.

Government to empower the appropriate authority.

5. (1) The appropriate authority shall ensure that:—

Functions of the appropriate authority.

(a) the accurate and regular assessment of air pollution is conducted across each district in India; and

(b) the provision of detailed information about air pollution and ambient air quality in India to the public on a weekly basis;

and may pass such order or regulation so as to comply with this duty.

(2) The appropriate authority, in order to monitor air pollution under sub-section (1), shall:—

(a) designate certain areas within metropolitan areas as 'pollution free zones';

(b) designate certain areas which may be exempt from the concentrations of pollutants as specified under Schedules I to IV as 'exempt zones' in such manner as may be prescribed;

(c) ensure regular sampling, measurement and modelling of ambient air pollutants, including the deposition of pollutants, listed in Schedule I;

**(d) ensure regular sampling, measurement and reporting of indoor air pollutants listed in Schedule II;**

**(e) ensure regular sampling, measurement and modelling of ambient pollutants causing primarily environmental harm listed in Schedule III; and**

(f) ensure regular sampling, measurement, modelling and reporting of other air pollutants causing climate change listed in Schedule IV.

(3) The appropriate authority may, in order to carry out its duties provided in sub-section (2) frame such regulations which shall:—

(a) require owners of buildings used as places of work to comply with the standards and concentrations of pollutants as listed in Schedules I to IV to this Act and to obtain a certificate of compliance which may be updated from time to time as per orders of the appropriate authority;

(b) specify the manner in which the certificate of compliance shall be suspended in respect of such owners of buildings which are used as places of work which no longer comply with the standards and concentrations of pollutants as listed in Schedules I to IV to this Act; and

(c) require the owners of buildings which are used as places of work which no longer comply with the standards and concentrations of pollutants as listed in Schedules I to IV this Act to pay a fine as laid out under Schedule V to this Act.

## SCHEDULE I

(Clause 2(1) (C))

## POLLUTANTS RELATING TO LOCAL AND ATMOSPHERIC POLLUTION

**Pollutant concentrations**

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Black carbon	6 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	3 µg/m <sup>3</sup>	1 year
Benzene (C <sub>6</sub> H <sub>6</sub> )	3.5 µg/m <sup>3</sup>	1 year
1, 3 Butadiene	2.25 µg/m <sup>3</sup>	1 year
Formaldehyde (HCHO)	8.6 µg/m <sup>3</sup>	1 year
Ground-level ozone (O <sub>3</sub> )	240 µg/m <sup>3</sup> (alert threshold)	1 hour
	180 µg/m <sup>3</sup> (information threshold)	1 hour
	100 µg/m <sup>3</sup>	Running 8 hours (10 permitted exceedances each year)
Lead	0.25 µg/m <sup>3</sup>	1 year
Nitrogen dioxide (NO <sub>2</sub> )	200 µg/m <sup>3</sup>	1 hour (18 permitted exceedances each year)
	40 µg/m <sup>3</sup>	1 year
Particulate matter (PM <sub>1</sub> , PM <sub>2.5</sub> and PM <sub>10</sub> )	PM <sub>1</sub> : 18.5 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>1</sub> : 7.5 µg/m <sup>3</sup>	1 year
	PM <sub>2.5</sub> : 100 µg/m <sup>3</sup> (alert level)	Running 8 hours
	PM <sub>2.5</sub> : 25 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>2.5</sub> : 10 µg/m <sup>3</sup>	1 year
	PM <sub>10</sub> : 50 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>10</sub> : 20 µg/m <sup>3</sup>	1 year
Polycyclic Aromatic Hydrocarbons expressed as concentration of benzo(a) pyrene	0.25 ng/m <sup>3</sup>	1 year
Sulphur dioxide (SO <sub>2</sub> )	500 µg/m <sup>3</sup>	10 minutes (24 permitted exceedances each year)
	20 µg/m <sup>3</sup>	24 hours (3 permitted exceedances each year)
<b>Pollutant exposures</b>		
Particulate matter (PM <sub>2.5</sub> )	PM <sub>2.5</sub> : 6.5 µg/m <sup>3</sup> (population weighted exposure within each zone and agglomeration)	5 percent per calendar year until the limit is reached

SCHEDULE II  
[Clause 2 (C)]  
INDOOR AIR POLLUTANTS

**Biological indoor air pollutants (dampness and mould)**

<i>Pollutant</i>	<i>Concentration</i>	<i>Averaging period</i>
Dampness	Zero	n/a
Mould	Zero	n/a

**Pollutant-specific guidelines (chemical pollution)**

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Benzene (C <sub>6</sub> H <sub>6</sub> )	3.5 µg/m <sup>3</sup>	1 year
1, 3 Butadiene	2.25 µg/m <sup>3</sup>	1 year
Carbon monoxide (CO)	7 mg/m <sup>3</sup>	24 hours
Formaldehyde (HCHO)	8.6 µg/m <sup>3</sup>	1 year
Hydrogen sulphide (H <sub>2</sub> S)	7 µg/m <sup>3</sup> 0.15 µg/m <sup>3</sup>	30 minutes 24 hours
Nitrogen dioxide (NO <sub>2</sub> )	200 µg/m <sup>3</sup> 40 µg/m <sup>3</sup>	1 hour (no exceedances) 1 year
Naphthalene	0.01 mg/m <sup>3</sup>	1 year
Polycyclic aromatic hydrocarbons (PAHs) expressed as concentration of benzo(a) pyrene	Zero	n/a
Radon	100 becquerels/m <sup>3</sup>	3 months
Tetrachloroethylene	0.25 mg/m <sup>3</sup>	1 year
Trichloroethylene	Zero	n/a

**Pollutants from indoor combustion of fuels**

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Particulate matter (PM <sub>1</sub> , PM <sub>2.5</sub> and PM <sub>10</sub> )	PM <sub>1</sub> : 18.5 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>1</sub> : 7.5 µg/m <sup>3</sup>	1 year
	PM <sub>2.5</sub> : 25 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>2.5</sub> : 10 µg/m <sup>3</sup>	1 year
	PM <sub>10</sub> : 50 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>10</sub> : 20 µg/m <sup>3</sup>	1 year

**Infiltration of outdoor air into indoor environments**

<i>Pollutant</i>	<i>Unit</i>	<i>Averaging period</i>
Particulate matter (PM <sub>2.5</sub> and PM <sub>10</sub> )	PM <sub>2.5</sub> : 12.5 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>2.5</sub> : 5 µg/m <sup>3</sup>	1 year
	PM <sub>10</sub> : 25 µg/m <sup>3</sup>	24 hours (35 permitted exceedances each year)
	PM <sub>10</sub> : 10 µg/m <sup>3</sup>	1 year

**SCHEDULE III**

[Clause 2 (C)]

**POLLUTANTS CAUSING PRIMARILY ENVIRONMENTAL HARM****Pollutant concentrations**

<i>Pollutant</i>	<i>Unit</i>	<i>Calendar Year</i>
Ammonia (NH <sub>3</sub> )	3 µg/m <sup>3</sup>	1 year
Ground-level ozone (O <sub>3</sub> )	AOT40 (Calculated from 1 hour values) 6,000µg/m <sup>3</sup> hours	Summer (1 April to 30 September)
Nitrogen oxides (NO <sub>x</sub> ) (expressed as NO <sub>2</sub> )	75µg/m <sup>3</sup>	24 hours
	30µg/m <sup>3</sup>	Calendar year
Sulphur dioxide (SO <sub>2</sub> )	20µg/m <sup>3</sup>	Calendar year and winter (1 October to 31 March)

**Pollutant emissions**

<i>Pollutant</i>	<i>Unit</i>	<i>Calendar Year</i>
Ammonia (NH <sub>3</sub> )	283 kilotonnes	2020
	271 kilotonnes	2025
	258 kilotonnes	2030
Non-methane volatile Organic compounds (NMVOCs)	689 kilotonnes	2020
	671 kilotonnes	2025
	654 kilotonnes	2030
Oxides of nitrogen (NO <sub>x</sub> )	724 kilotonnes	2020
	579 kilotonnes	2025
	434 kilotonnes	2030
Particulate matter (PM <sub>2.5</sub> )	79 kilotonnes	2020
	70 kilotonnes	2025
	61 kilotonnes	2030
Sulphur dioxide (SO <sub>2</sub> )	292 kilotonnes	2020
	188 kilotonnes	2025
	85 kilotonnes	2030

## SCHEDULE IV

[Clause 2 (C)]

## POLLUTANTS CAUSING CLIMATE CHANGE

**Non-Fluorinated gases**

<i>Pollutant or measure</i>	<i>MtCO<sub>2</sub>e</i>	<i>Period or calendar year</i>
Methane (CH <sub>4</sub> )	Reduce emissions by around 19% below 2015 levels	2030
Nitrous oxide (N <sub>2</sub> O)	Reduce emissions by around 19% below 2015 levels	2030

**Fluorinated gases**

<i>Pollutant</i>	<i>MtCO<sub>2</sub>e</i>	<i>Calendar year</i>
Hydrofluorocarbons	Reduce emissions by at least 79% below 2015 levels	2030
	Reduce emissions by at least 86% below 2015 levels	2036
Nitrogen trifluoride	Reduce emissions by at least 68% below 2016 levels	2030
Perfluorocarbons	Reduce emissions by at least 68% below 2016 levels	2030
Sulphur hexafluoride	Reduce emissions by at least 68% below 2016 levels	2030

## SCHEDULE V

[Clause 5(3) (D)]

**Penalty Matrix**

<i>Time of offence</i>	<i>Individual</i>	<i>Corporate body</i>
First offence under the Act	Not exceeding Rs. 10,000	Not exceeding Rs. 100,000
Second offence under the Act	Not exceeding Rs. 15,000	Not exceeding Rs. 150,000
Third offence under the Act	Not exceeding Rs. 25,000	Not exceeding Rs. 250,000
Any subsequent offence	Not exceeding Rs. 50,000	Not exceeding Rs. 500,000

## STATEMENT OF OBJECTS AND REASONS

The national capital of India witnessed an Air Emergency every year, where Air Quality remained hazardous on AQI, creating a state of panic, fear, seen medical distress and may be medical damages to many individuals that may be unnoticed now. This situation sparked a state of panic and confusion both amongst our citizen, in privileged class as well as unprivileged class alike. It was not limited to national capital alone but spread over many areas in our country, across political boundaries of different states ruled by different political parties. While it was evident that Government's efforts proved dwarfed against the challenge of pollution emergency mounted yet this year again.

It is therefore, I believe, cannot be left in present state of affairs and Central Government has to step in with a more pro-active role, that can be provided only through a legislation. Mask and Air Purifiers were being sold increasingly however, experts are varied on their utility in our country, and not everyone can afford it. This creates a situation where, even if masks and air purifiers work, they give an advantage and preference to few privileged over majority of underprivileged.

It is need of the hour that individuals & institutions unite and work towards meeting this challenge, on a defined BLUEPRINT. Though the Central Government announced NCAP (National Clean Air Program) earlier this year, there appears a need to do much more. A Study should be done, if masks or air purifiers work. As even if they do, it's a ethical debate whether some privileged citizen have more than equal right to life and liberty than other citizen.

A Right to Breathe for citizen is a fundamental requirement of Right to Life, which is and can be guaranteed only when there is right, and more importantly opportunity to Breathe Clean Air.

Hence this Bill.

R.K. SINHA

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DESH DEEPAK VERMA,  
*Secretary-General.*